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VOLUME III
TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941 **1942**

No. 798 **4**

THE UNITED STATES OF AMERICA, PETITIONER

vs.

WILLIAM R. JOHNSON

No. 800 **5**

THE UNITED STATES OF AMERICA, PETITIONER

vs.

**JACK SOMMERS, JAMES A. HARTIGAN, JOHN M.
FLANAGAN, ET AL.**

**ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT
COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

**PETITION FOR CERTIORARI FILED DECEMBER 12, 1941
CERTIORARI GRANTED FEBRUARY 2, 1942**

IN THE
United States Circuit Court of Appeals
For the Seventh Circuit

THE UNITED STATES OF AMERICA,

Plaintiff-Appellee,

No. 7500

vs.

WILLIAM R. JOHNSON,

Defendant-Appellant.

THE UNITED STATES OF AMERICA,

Plaintiff-Appellee,

No. 7501

vs.

JACK SOMMERS, ET AL.,

Defendants-Appellants.

Appeal from the District Court of the United States for the
Northern District of Illinois, Eastern Division.

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744 ALBERT BISSELL, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Plunkett.

My name is Albert Bissell. I live in Evanston, Illinois. I am a salesman employed by the Keystone Manufacturing Company, Boston, Mass. I know the defendant Jack Sommers. I first met him in 1933 at Kedzie and Lawrence, at the Horse-Shoe Club. It was a gambling house. I did have occasion to gamble there and at other places in Chicago. I gambled at the Southland Club at Cottage Grove and 63rd, at the Harlem Stables on Harlem Road near Irving Park, at the D and D Club on Dearborn and Division, and I think it was the Casino at Irving Park, in the bank building, and the Lincoln Tavern. After my first meeting with the defendant Sommers, I have seen him at the Lincoln Tavern and the Stables. I had a conversation with Sommers in the month of July, 1937, at the Horse-Shoe Club at Kedzie and Lawrence in that I had more or less gambled over my means. I think the conversation was in Mr. Sommers' office. I don't think anyone else was present that could hear the conversation, but there was a cashier there.

Q. Will you relate what you said to Sommers and what he said to you?

Mr. Thompson: I object to that as hearsay, as to all the other defendants and as immaterial to the issue in this case on the taxable income of the defendant Johnson.

The Court: Overruled.

The Witness: I explained to Mr. Sommers that I had gambled beyond my means. I had lost for the last three 745 or four days a considerable amount of money and wondered if it would be possible in any way to grant me a loan for a while. Mr. Sommers said it possibly could be arranged, and I said, "Well, could that be done?", and he said, "I will get in touch with the boss." I said, "That would be a very nice thing to do, if you could." I asked him if he would do so. So he went to his office and a telephone number was either—I don't know whether Mr. Sommers dialed it or not, or whether he asked his cashier to dial it, but that number was dialed and the only part of the conversation I heard was Mr. Sommers say to the other party,

"Yes, he did." After that he said, "Okay", and hung up. And I asked Mr. Sommers what he meant by "Yes, he did" and he said he was asked on the other end of the 'phone if I had paid up the loan I had made previously on a similar occasion, and Mr. Sommers said "Yes, he did"; and the party at the other end then said, "Well, let him have it again." During the course of our conversation, I asked Mr. Sommers who this big boss was and he said it was Mr. Johnson. That was the end of the conversation, and I got the money. I got my loan. Mr. Sommers gave me the money.

The circumstances under which I made the prior loan were the same in that I indulged beyond my means when I asked for a loan. That must have been over a year or two before. It was at the same place then at that time they also — Mr. Sommers said that possibly it could be arranged and he called Mr. Hartigan in conference and the two of them went into the office. I stayed outside and when they came out why they gave me the money. I did have occasion while I was gambling at the places I have named to issue checks.

At the time I issued the checks they represented a loss 746 for that evening's play. It is true in every case except on two or three occasions. I didn't lose any money except the money I had with me and I cashed a small check of not more than twenty-five dollars to ride me over the weekend, or something like that. Any other checks issued were in payment of losses at that same evening.

Government's Exhibit X-200 is a check drawn by me for \$100.00. That represents a loss beyond the money I had with me that particular night. X-201 is another check for \$100.00 which represents the same thing. X-202 is another check for \$100.00 which represents the same thing, and X-203 is a check for \$75.00, the same conditions. X-204 is a check for \$100.00, the same thing. X-205 is a check for \$50.00, the same conditions. X-206, \$50.00, the same situation. X-207, \$100.00, the same thing.

I don't think the exhibits I have been talking about were cashed in the gambling houses that I have mentioned heretofore because as a rule I was given \$100.00 to gamble with. When I went out I just left the check in payment of that \$100.00 and the checks very likely went to their bank. These checks were left at the gambling houses where I have gambled.

Mr. Thompson: If the Court please, we move to strike this testimony on behalf of the defendant Johnson on the

ground there is no connection with this transaction and hearsay as to him.

The Court: Motion denied.

These checks, Government's Exhibits X-200 to 207, were paid through my bank account and charged against my bank account. I see the defendant Sommers in the courtroom. He is the same person about whom I have been testifying. I see the defendant Hartigan in the courtroom. He is the same person about whom I have been testifying.

These checks do not represent all the checks that I 747 issued. The others are very likely destroyed. I couldn't answer how many more there were.

Mr. Plunkett: The Government will offer Government's Exhibit X-200 to X-207, inclusive. You may cross-examine.

Mr. Thompson: On behalf of the defendant Johnson, we object to the offer on the ground of immateriality, and not tending to prove anything with respect to the taxable income of the defendant Johnson or any other issue in this case, and they are hearsay as to him.

Mr. Hess: May I reserve my objection until the cross-examination?

The Court: Yes.

Cross-Examination by Mr. Hess.

I have been a salesman for twenty-five years. That is practically my entire business life. I gambled before 1933. These occasions, commencing in 1933, were the commencement of my gambling to any large extent. I just moved to Chicago that year. I only gambled in the Navy before that. I don't know whether that was permissible in the Navy. I told you all the places that I gambled in the Chicago community, that I thought were Johnson houses. I gambled in what I thought was Johnson houses.

Q. Did you gamble where you didn't think they were Johnson houses?

A. No, I didn't.

Q. Where else?

A. I gambled at the Chez Paree.

I gambled out in Cicero on West Roosevelt Road. I gambled at Indiana Harbor besides those two places. 748 My activity in that line was quite frequent and I gambled way over my head at times. That commenced in 1933. I lost money at the Chez Paree. I don't know how

much. I have won there, small amounts maybe \$50.00 or so. I did not win more than I lost. The same circumstances I would say about Indiana Harbor. In every one of these places where I gambled my losses exceeded my gains. I have not added up these exhibits that I have identified. I don't believe there was any particular period of time in 1936 and '37 that I gambled more than at other times.

My activities were about a normal keel in this gambling business. These exhibits that are from February 24, 1937, to March 25, 1937, approximately one month, do not represent my losses in that month. I did lose more. I never issued a check until I lost the money I had with me. I did not give the check until I left the place. Therefore, I lost the money there again I was given. I lost more than \$100.00 on that game on February 24 when I issued Exhibit 201 because I went in with money. I would not say positively that my loss was \$50.00 on February 27th, Exhibit 205. I may have had some that I went in with. Exhibit 206 on March 1st, \$50.00 was not my loss. None of them were.

Exhibit 200, March 4th, \$100.00 was not my loss. Exhibit 207, \$100.00, March 5th, is not my loss. Exhibit 204, March 17th, \$100.00 is not my loss. Exhibit 202, March 23rd, is not my loss. Exhibit 203, March 25th, \$75.00, is not my loss. Those do not represent my losses exclusively. During this period of time covered by these exhibits I had some winnings now and then. There were a large number of occasions that I would walk out with cash that I had won.

I had winnings, but I would lose them the next day. I would not win every other day. I might lose for three or four days or a week. Then I would possibly win for three or four days. I knew I lost more than I won. I wouldn't say I was about even on the whole.

I don't know how much I won in the month of February 24th to March 25th, 1937. I won now and then. I earned this money that I lost. At that time I was of an earning capacity that I could lose \$675.00 in one month. That was about the time I had the conversation for a loan. I would like to retract the statement that I could afford to lose that much money. I did lose that much money. I had it to lose. I think some of it that I lost was what I had won on previous occasions. I did always have a bank account. I had one during the year 1937. I think the other checks that I might have issued are lost or destroyed. They couldn't be the only checks in the year, if I gambled that much. These

are not the only checks that I issued for gambling debts. They are the only checks I could find.

February 1937 or February of any year at that time happened to be the best time of the year for me, because I usually was paid a large bonus at that time of the year. That was my accumulation when I started my winter's gambling. I definitely did approach Mr. Sommers for a loan two times, possibly three. The first time was prior to the issuance of these checks which I have referred to here as exhibits. None of these checks are in repayment of that loan. I am positively sure of that. I did repay that loan by check. The check in payment of that loan was larger than any of those checks. It may have been two 750 checks and I do not have those checks. At the time I got that loan I had been gambling in the Horse Shoe Club. That is the only place I ever asked for a loan. I never asked for one at the Chez Paree. I got the second loan in July, 1937. I think it was five hundred or five hundred and fifty. I am not sure. I did sign a note. I was given the currency when I signed the note. I went on a vacation with the currency. I explained to Mr. Sommers that I wanted some money for a vacation. I had lost the vacation money. I had to borrow some money from the man to whom I had lost it so I could go on a vacation. I did repay most of it. I don't know exactly how much, most of it. I don't think I owe most of it. I know they had sent a man down to my office there every week for some money. I gave him cash. I don't remember definitely what the largest sum was I ever walked out of the Horse Shoe with as winnings, approximately two or three hundred dollars. That occurred on several occasions. I would go to some of these gambling houses once or twice or so a week. I don't think I ever walked out of any of the clubs as a winner of any larger amount than two or three hundred, although I have won more than that, but I have never walked out with it. I won \$1200.00 one night at the Horse Shoe Club. They sent out for dinner for me and served me dinner at the place. After dinner I went back and lost. I did not carry that out of the Horse Shoe. I lost it again. I would come back and gamble some more. I was trying to make up my losses. I am not still a gambler. I quit. I learned my lesson.

All of these checks that I have been identifying here by exhibit numbers were not all cashed by me at Mr. Som-

mers' place, the Horse-Shoe. I think you could tell 751 better than I could from the stamping on the back of the bank they were deposited at. It would be in the neighborhood of the gambling house to which those checks were cashed. They were not cashed exclusively at any one place. I did cash checks at the Chez Paree. I have not got them. They are destroyed or lost. I did cash checks in Indiana Harbor. I can't find them. Those are the only checks I can find of any of my gambling losses. I couldn't say about this other place, 12th Street. I never cashed any checks at the Cicero place. I did gamble there. I lost. I went back and gambled more to try to make it up. I never gambled in Cicero at the time. I gambled at any of the houses I have mentioned. It was after they were closed. Between 1933 and 1937 I was going to gambling houses in Chicago in the neighborhood, losing sometimes and winning sometimes, but mostly losing.

I am not sure whether Mr. Sommers dialed or whether he asked his cashier to dial the telephone in the office. I don't think the cashier was present at the conversation. I think I asked for it outside of the office. Then we went in the office. Mr. Sommers did not go any place to tell somebody to dial the telephone after I asked for the loan. It was done right there together. I doubt if the cashier could hear him because he was quite a ways up. We were down below. He was attending to his business.

I was also at the Horse-Shoe when the first loan was made. I don't know what time of the day or night. I don't know what time of the day or night it was when I got the second loan. I think it was night time. I play dice.

I did play in the daytime. I wouldn't say I played my 752 dice games more in the daytime than I did at night. I played at night, too. I have no office. The office of the people I work for is in Boston, Massachusetts. I was not with this firm at that time. I had an office at that time in the Garland Building. It was the branch sales office of the New York firm. I was my own boss. I used to get there about nine o'clock. I used to leave around five-thirty. That occurred every day. During these hours I did do dice duty. I used to take the afternoon off and go out and have a little holiday at the Horse-Shoe. That is true of the Southland. I was there both in the daytime and nighttime. The only game I played was dice.

The firm that I was with at the time I was gambling was the Lionel Corporation, the toy business. I am not

with them now. I ceased to be in their employ about a year and six months ago.

Mr. Hess: Now, with respect to these exhibits, if the Court please, I wish to note an objection that they are a lot of unintelligible letters, I notice on them, that do not appear to have anything to do with anybody in this case, indicated there, and also bear certain stamped endorsements that has no connection with any of these defendants and in any event, taking them as a whole, it is almost impossible to determine who, if any of these defendants, these checks are intended to apply against, excepting Mr. Sommers, perhaps.

So we object on that reason and on the reason they are immaterial to the issues in the case.

The Court: Objection overruled. They may be received.

(Whereupon said documents so offered and received in evidence were marked GOVERNMENT'S EXHIBITS X-200, X-201, X-202, X-203, X-204, X-205, X-206 and X-207.)

753 Mr. Thompson: That ruling also applied to the pending objection I made on behalf of Mr. Johnson?

The Court: All of them.

Mr. Hurley: Your Honor, I do not believe there was a ruling on this offer that was made before the noon recess, X-197 and X-194. I think it was withheld pending cross-examination by counsel.

Mr. Thompson: I am not sure, Your Honor, whether I noted the objection. We adjourned just at the conclusion of my cross-examination. I do object on behalf of the defendant Johnson on the ground that neither of the exhibits here are identified with Mr. Johnson and no connection shown which is binding on Mr. Johnson. It is hearsay as to him entirely and immaterial to any issue in the case, as far as Johnson is concerned, and certainly as far as all the rest of the defendants are concerned, other than the defendant Brown, it is hearsay and immaterial, and no connection whatever shown with any defendant, with any of these exhibits, except the defendant Brown.

The Court: I think the objections to X-194 and X-197 may be overruled and the exhibit may be received.

(Which said documents so offered and received in evidence were marked GOVERNMENT'S EXHIBITS X-194 and X-197.)

JOHN MLCKOVSKI, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Miller.

My name is John Mlckovski. I am the manager of the Lawndale Currency Exchange. It is located at 2204 South Pulaski Road. I have been in business since 1936. 754 My duties in a general way as manager of this currency exchange are to cash checks, issue money orders, accept utility bills for payment, and exchange currency.

I know the defendant John Flanagan. I first met him about four years ago, some time in the year 1936 at the Lawndale Currency Exchange. Mr. Albert Couch introduced me to the defendant Flanagan. Mr. Herbert Hillman, the manager of the currency exchange at that time, introduced Mr. Couch to me at the Lawndale Currency Exchange. I have only known Mr. Couch to be at 4020 Ogden Avenue. I did transact business for Mr. Flanagan and for Mr. Couch. The nature of the transactions were to cash checks and exchange currency. I wouldn't remember how often Mr. Flanagan brought checks into my place. Mr. Flanagan did bring checks in to cash. Sometimes it would be quite regular, when they would be open. Sometimes he would come in, maybe once or twice a week, maybe three times a week. I don't quite remember how many times he would be in. I did keep a record of the transactions I had with Mr. Flanagan. The checks cashed by me on behalf of the defendant Flanagan were endorsed. I kept a record of the checks that I cashed on the record sheet.

I have seen Government's Exhibit X-175, for identification, consisting of a group of 26 sheets before. These are record sheets of checks that had been cashed in the course of business. They covered a period from May 7, 1936, to December 31st, 1936. A sheet like this was made for every day we did business. I wrote down the information that is on these sheets. I would put down the number of the check in the first column, and in the next column, the dates of the checks, then the maker of the check and the endorser. The other column was for the bank 755 number. The column second to the last was for the amount of the checks, and the last column was the

fee that we charged for cashing the checks. I kept this record personally. This is part of the permanent records of the Lawndale Currency Exchange. I would identify the checks cashed by the defendant Flanagan by putting down the description of the check and the name of the endorser of the check. That is also true of Mr. Couch. That item is a check on there brought in by Mr. Flanagan. This column is the maker of the check. The fourth column from the left would be the first endorser, and the fifth column from the left, the second endorser.

Government's Exhibit 175 was kept by me in the usual and ordinary course of our business. It is usual and customary in our business to keep such records.

Government's Exhibit 176, for identification, is the record of the checks cashed in the course of the business. That is a daily record kept by me, and I enter on that record the checks cashed by me at that exchange. That is in my handwriting. Those records are made in the usual and ordinary course of our business. They are a part of the permanent records of the Lawndale Currency Exchange. It is customary in our business to keep such records. All of those sheets are not the same form of sheets. The difference in the form of the sheet is explained because we changed the form on July 26, 1936. The smaller sheets contain the same information that the larger sheets do.

Government's Exhibit 177, for identification, consisting of a group of 81 sheets, is a record of the checks cashed in the course of business covering the period of March 9, 1938 to August 18, 1938. They are in my handwriting, 756 kept by me in the usual and ordinary course of our business.

I do not know where Flanagan's place of business was or is. I just knew him as 4020 Ogden Avenue. It is a gambling establishment. I knew Couch as at 4020. When I cashed the checks for Mr. Flanagan or Mr. Couch I would give them whatever denominations of money I had on hand. Mr. Couch would bring in currency. I would exchange it for hundred dollar bills. I would say sometimes it would be once or twice a week and maybe once or twice a month. Mr. Flanagan brought currency in to the exchange. I gave him back hundred dollar bills. I did order currency especially for Mr. Couch. That was done at his request. Mr. Couch sometimes would come in and tell me to order the hundred dollar bills for him. He would

come in and then take the order that he had given me and exchange it. He would give me currency of smaller denominations for the hundred dollar bills.

Mr. Flanagan asked me to get hundred dollar bills for him. I did. He gave me currency of smaller denominations for the hundred dollar bills. Mr. Samuel Hillman is my boss at the Lawndale Currency Exchange. He also has the Roosevelt Currency Exchange. The Lawndale Currency Exchange is connected with the Roosevelt Agency and Loan Corporation. It is a branch. I would call our main office in obtaining the hundred dollar bills ordered by Mr. Couch or Mr. Flanagan. The main office is the Roosevelt Agency and Loan Company at 4003 Roosevelt Road. And they would call the bank and the bank would deliver the money to me. The bank would deliver the money to me on my afternoon delivery. It would be the same day that I put in the order. I would order currency through our main office twice a day. The first order

would be about 12:00 o'clock noon and the other one 757 around between two and three o'clock. I would get the one I put in at 2:00 or 3:00 the following day. I had no other customers at the Lawndale Currency Exchange that ordered hundred dollar bills.

Cross-Examination by Mr. Thompson.

There are four exchanges in the chain with which I am connected. They are located at Madison and Crawford, Roosevelt and Crawford, Ogden Avenue between 22nd and Ogden, and 26th and Crawford. The Lawndale Currency Exchange transacted this business with Mr. Flanagan that I have been describing. The address is 2204 Pulaski Road. That is the present address. 3953 West Ogden Avenue was the address when we first began to do business with Mr. Flanagan, I think about four years ago.

The first transaction that was had with Mr. Flanagan was recorded on sheets X-175. They are the transactions of the currency exchange. I wasn't in the currency exchange at that time. Mr. Herbert Hillman was. It looks like his handwriting. I testified that these sheets X-175 recorded the transactions with the Lawndale Currency Exchange in which Mr. Flanagan was involved. The first transaction Mr. Flanagan would be August 10, 1936. I determined that by the fact that the words "J. M. Flana-

gan" appear in the third wide column from the right. There is nothing on the sheets prior to that with respect to Mr. Flanagan. That is a transaction with the defendant John Flanagan on the second sheet. The date is May 23rd, 1936. According to the records, I would say that is the first transaction that was had with Mr. Flanagan at this currency exchange. The maker of that check was Mickey Rafferty Cafe. I don't know where that cafe is located. That check was payable to cash. It was drawn on bank 70-1741. I don't remember what 758 the bank would be. It was for \$602.25. I don't know what that transaction related to. That was just a single transaction. I did not handle that transaction. It looks like Mr. Herbert Hillman's handwriting. The Exchange was located at 3953 Ogden Avenue on May 23rd, 1936. I don't know whether Mr. Flanagan was then operating a gambling parlor at 4020 Ogden Avenue. I don't know anything about this transaction, only what this record shows.

The transaction with Albert Couch is with the Mr. Couch I have been talking about. That is on the third sheet here which is dated June 16th, 1936. I don't know anything about that transaction, just that it was a check that was cashed. I assume that because that is what the record shows. The first one up here is not in my handwriting. The one four or five lines below, Albert Couch, is in my handwriting. That was cashed June 16th, 1936, at the same time. I handled that transaction. I was introduced to Mr. Couch as at 4020 Ogden Avenue. Mr. Herbert Hillman introduced me, and he told me that he worked over at 4020 Ogden Avenue. I didn't know Mr. Couch prior to that time. That is all I know about the transaction. Up to that time I hadn't seen Mr. Flanagan. I had had no conversation with Mr. Flanagan about Mr. Couch.

That is my handwriting on the next page on July 3d, 1936, which apparently was a check cashed by Mr. Albert Couch. That check was drawn by the Church of the Annunciation. I do not know who drew that check other than that name, Church of Annunciation. That is the maker of the check. That is for \$600.00. "Sil" means Silver. That is the exchange on silver. We used to put the exchange on silver on the sheet there. We charged 759 ten cents exchange on silver, and \$3.00 was the fee for the \$600.00 check. I don't know anything about the circumstances only that Mr. Couch brought in a

Church of the Annunciation check for \$600 and got cash for it. I do not know whether that had any relation to 4020 Ogden Avenue gambling house or not. I hadn't up to that time met Mr. John Flanagan. That is July 3d, 1936. I don't think I had seen Mr. John Flanagan up to that time. The record of the check on the sheet of July 7th, 1936, which is apparently cashed by Albert Couch, is in my handwriting. That check was made by the Morton Park Federal Savings and Loan Association and was payable to James V. Iowania for \$70.00. All I know about that transaction was that I cashed a check. I cashed it for Mr. Couch, but I don't know whether it had any identity with this gambling parlor. Just one transaction there on that day with Mr. Couch was made. The next one after July 7, 1936, was August 4, 1936, with Mr. Couch. That is in my handwriting. That check was made by A. H. Rate, payable to Frank Vase. "Fr." means "Frank". That is the way they abbreviate it. I do not know Frank Vase. I do not know if there is such a person. I wouldn't know whether it was Father Vase.

The next time Mr. Flanagan's name appears after May 23, 1936, is August 10th, 1936. On that day two checks were cashed. Each check was for fifty dollars. Both checks were made by J. R. Frank. I don't know Mr. J. R. Frank. This is my handwriting. As far as cashing a check was concerned, that was the first transaction I had with Mr. Flanagan personally. I don't know whether I met Mr. Flanagan before August 10th, 1936. When I met him, he came in with Mr. Couch and Mr. Couch introduced me to Mr. Flanagan. That would be about four years ago. I wouldn't recall that in connection with this

760 first transaction when I cashed these two checks for Mr. Flanagan. I don't remember whether I cashed checks for Mr. Flanagan the first time I met him. Mr. Couch introduced Mr. Flanagan to me. I am sure it was not the other way around, that Mr. Flanagan introduced Mr. Couch to me in our exchange. I don't remember whether I was by myself there at the time these two men came in. That is all I remember about him. August 10, 1936, is the first check, so far as my handwriting indicates, that I cashed for Mr. Flanagan.

Q. Not another check in that bunch from Mr. Flanagan, is there?

(No audible answer.)

Q. You were watching, weren't you?

A. Yes.

Q. Not another check in that bunch?

A. Well, as far as the endorser on that sheet is concerned.

Q. Well, if you cashed a check that Mr. Flanagan brought in, you would write his name on here, wouldn't you?

A. Some times we were busy and we didn't put it on.

Q. How are you going to tell then, which checks Mr. Flanagan cashed and which he did not cash on these sheets?

(No audible answer.)

Q. Do you know?

(No audible answer.)

Q. Do you, Mr. Mlekovski?

(No audible answer.)

Q. You don't know, do you, that Mr. Flanagan ever cashed over two checks in this whole period represented by this bunch of sheets X-175, which ran from May, 1936, through December, 1936?

761 A. There may have been some checks that were cashed there, but—

Q. Were there?

A. No.

The currency exchange down on Ogden Avenue was open from nine to six. There was another currency exchange at 26th and Crawford, about four blocks. The bank at Cicero Avenue is the only other exchange around there for accommodation of that kind. I would say the bank was about a mile away. If anyone wanted to cash a check in our immediate neighborhood they had to go to one of these two currency exchanges, that is, unless they went to a store or some place else as an accommodation. The only institution holding itself out in the four blocks either way from our place of business was our own currency exchange. The Chicago Diner, a public restaurant, is located right there in the neighborhood. I don't know that it is open twenty-four hours a day. It is open all the time I am in the neighborhood. There is a street car barn right close there, and the street car men go on duty and off duty at that barn. That barn was a block from our currency exchange. At the present time we are located at 2204 Pulaski. I would say just about half a block from 3953 West Ogden Avenue. One is on Pulaski, the other one is on Ogden. We were at 3953 West Ogden at first. That would be on the south side of Ogden Avenue and this present address of 2204 Pulaski is within a block of the other location. This car barn is within a block of this location we are talking about.

The Western Felt Company is another factory right in the neighborhood. The Cab Sales and Parts Corporation is not in the neighborhood. The institution indicated 762 here as Cab Sales and Parts Corporation is probably a check that I cashed for somebody. The concern that is named here as the maker of quite a block of checks is the Cab Sales and Parts. I wouldn't know about the Cab Sales. I think that is a Checker Taxi. There is a Checker Taxi stand on Crawford and 22nd. I don't know any of these payees, Mr. Straver, Mr. Tenen, Mr. Sterling, Mr. Moskovitz. That whole block would appear to be payroll checks cashed by Mr. Couch on May 4th, 1937. I don't know anything about where he got those checks or how he happened to be bringing them in to cash them on this day. He may have cashed them as an accommodation to these working men and then brought them in to be cashed the next day. I know I cashed them for Mr. Couch. That is all I know about it. The checks are only small odd amounts, \$9.48, \$17.51 and \$10.71. I think we omitted the first endorser on the 1938 sheets. We put on here the maker column and the final endorser, the person we would cash the check for on the last wide column.

The first check cashed by Mr. Flanagan in 1938 is right on the first page. This initial, J. M. That is J. M. Flanagan. J. J. Dugan would be the maker of the check. Frank Morgan would be the payee or the succeeding endorser on the check. There was only one check there cashed by Mr. Flanagan on March 9, 1938. That check was one that was made by Mr. Dugan, payable to Mr. Frank Morgan apparently. I don't know anything about where that check came from or what the transaction was represented by the check. The next check Mr. Flanagan cashed would be March 21, 1938. There were three checks on that day. The next checks cashed by Mr. Flanagan in 1938 were March 22nd, three checks. The next is April 2, 1938. From March 763 22nd to April 2nd there were no checks cashed by Mr. Flanagan. He cashed one on this day that I am looking at. The next one is April 5th. He cashed five checks on that day. The next is one on April 7th. The next is four on April 8th. The first of those checks are made by the Atlas Equipment Company, the next one, Charles F. Tomak; the next one by the American Express Company, only \$2.00; the next one Braud Motor Sales, \$40.00. I don't know anything about those transactions that were represented by those checks. It may have been

an accommodation cashing by Mr. Flanagan after our exchange closed for the day as far as I know. The next check Mr. Flanagan cashed was on April 11th, two on that day. The next is four on April 12th. I don't remember how many of those checks he would bring in. Sometimes he would cash a check or two for three or four days in succession then skip for a week or so. I know I cashed them for Mr. Flanagan, but that is all I know about it.

I know I cashed checks for Mr. Couch for this whole period and that is all I know about it. I haven't any idea what the total amount in dollars was of all checks I cashed for Mr. Flanagan. I do not have any idea of the amount in dollars of the total cashed for Mr. Couch. I wouldn't know over this whole period of two and a half years or so how much it would add up to. I wouldn't know that Mr. Flanagan cashed lots of checks for the street car men and others around the neighborhood after we were closed up at 6:00 o'clock. None of the car men talked to me about it. They did cash their checks with me sometimes when we were open in the daytime. As to those who got their checks cashed after we had closed, I don't know anything about where they cashed them. I don't know how

long Mr. Flanagan lived out there in that neighborhood
764 how long he had been in business out there. I don't

know Mr. Flanagan's business. I knew he was from 4020. I had never been in 4020. Mr. Herbert Hillman told me it was a gambling parlor. I don't know if he has ever been in it. All I know about it is what I was told.

SAM HILLMAN, called as a witness in behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Miller.

My name is Sam Hillman. I operate currency exchanges. The name of them is Roosevelt Agency and Loan Company, not incorporated. I operate four currency exchanges. We operate as the Roosevelt Agency and Loan Company, operating Roosevelt Currency Exchange, located at Roosevelt and Crawford, Garfield Park Currency Exchange, located at Madison and Crawford, Lawndale Currency Exchange, located at Cermak, Pulaski and Ogden Avenue; and the Crawford Currency Exchange, located at Crawford and 26th Street. I actively supervise the business of these exchanges. I see that the business

goes along, see that the boys have enough money to operate with, but not too much; set the policy for the type of checks to cash, set the general policy of the business, and so forth. The procedure for handling currency requirements is that the individual manager of the place makes his order twice a day for the money he needs and the Armored Express Company makes deliveries. The men will make an order for money at 3:00 o'clock for the following morning's delivery. He will telephone the main office, describing the amount of money he is going to need and what denominations he wants, and the main office will call the bank and order the money in that 765 denomination, deliver it by Armored Express to the branch direct from the bank. That is the procedure followed under my direction and supervision.

John Mlekovsky is the manager of the Lawndale Currency Exchange since some time in 1936. A record was kept of the currency orders of our various branch exchanges every day. When the manager would call in on the telephone and order the kind of money he wanted, we made a check, and on the back of that check we would describe that particular order, whom it was for—that is, the branch it was for, and when we remitted to the bank, it was always with that particular check, filled out on the face with the total amount of money ordered for all four branches, and that check, when it came back paid, we had it, cancelled. That record also shows the denominations of the bills ordered. It was shown in detail for all of the branches. There was always an initial in back of the amount denoting the denomination of the bills.

I have seen Government's Exhibit X-172-A, for identification, and B, C, D, and so forth, being a group of checks, before. These are checks issued by our office for currency requirements; check on the Halsted Exchange National Bank for money that we ordered from that bank. There is a record on the back of those checks as to the amount and denominations of currency orders for our various exchanges. There is such a record covering the currency delivered to the Lawndale Currency Exchange.

Referring to the reverse side of Government's Exhibit X-172-A, I can state that the Lawndale branch ordered \$50.00 worth of halves.

Mr. Thompson: If the Court please, we object to 766 this as hearsay; certainly not identified with any defendant in this case; not binding on any defendant. We have never seen these documents before.

Mr. Miller: The testimony of the previous witness, who is manager of the Lawndale branch office exchange, showed he delivered \$100 bills to Couch and Flanagan, and that they were the only customers to whom he delivered \$100 bills. He also stated the procedure whereby he obtained his daily currency shipments. These checks show currency shipments and the denominations will be set out on the back.

The Court: Objection overruled.

Referring to Government's Exhibit X-172-A, I can tell that eight \$100 bills were shipped to our Lawndale branch. Referring to the balance of these exhibits for the year 1936—Exhibit X-172-A, B, et cetera, there were five \$100 bills shipped to the Lawndale branch on December 1, 1936; there were ten on December 23, 1936; 25 on December 15, 1936; 50 on December 8, 1936; 10 on December 1, 1936; 10 on November 23, 1936; six on July 2, 1936; and five on May 7, 1936. That is all. I have seen Government's Exhibits X-173-A, for identification, a group of checks covering the year 1937, before. These are checks issued by our office to our bank, daily currency shipments for the period of one year. We sent fifty \$100 bills to our Lawndale branch on August 31, 1937; fifty on August 25, 1937; ten on August 10, 1937; ten on August 3, 1937; five on July 26, 1937; ten on July 17, 1937; ten on July 2, 1937; ten on May 25, 1937; ten on May 18, '37; ten on March 23, '37; twenty-five on March 17, '37; fifteen on March 2, '37; five on February 26, '37; twenty on February 20, '37; five on February 11, '37; twenty-five on January 27, '37; twenty-five on January 26th. That

767 is the same both times. Six on January 25, 1937; five on January 14, '37; five on January 12, '37; five on January 5, '37. All of those I have designated are orders for \$100.00 bills.

Government's Exhibit X-174, for identification, consisting of a group of checks, are checks issued by us to the Central National Bank, Chicago, for currency shipments of January 20, 1938, to and including August 20, 1938. I can, by referring to those exhibits, state what dates and in what amounts \$100 bills were shipped to our Lawndale branch. Five on August 27, 1938; five on August 22, 1938; six on July 18, 1938; forty on May 19, 1938; forty on May 14, 1938; sixty on April 23, 1938; five on March 30, '38; four on March 18, '38; and seven on January 20, 1938.

Exhibits X-172-A to L, being these cancelled checks that

I have just looked at, are part of the permanent records of our company, kept under my supervision and control. They are made in the usual and ordinary course of our business. It is customary in our business to keep such records. Exhibits X-173-A to Z, and A-1 to V-1, that I have examined, are part of the permanent records of our organization.

Mr. Thompson: We will admit the witness will answer all the qualifying questions as he has answered the previous ones.

Government's Exhibits X-174-A to Q, inclusive, are our checks. I know the defendant John Flanagan personally. He was pointed out to me. I saw him at the Lawndale Currency Exchange. I don't know to my knowledge where his place of business was. I just saw Mr. Flanagan once and I happened to be in the cage when he came in and he cashed a check and Mr. Mlekovsky said that was Mr. Flanagan. Never introduced to him. I see him in the court room (indicating the defendant Flanagan).

768 Mr. Miller: I now offer Government's Exhibits X-172-A to L, X-173-A to Z, and A-1 to V-1, and X-174-A to Q, all inclusive.

Cross-Examination by Mr. Thompson.

We had a special service arrangement with the Halsted Exchange National Bank and paid for this service on a regular fee basis. This check of February 1, 1936, which is X-172-A, for identification, is in the sum of \$9,000, made by the Roosevelt Agency and Loan Co., and on the back is an indication of currency requirements for three currency exchanges. I have a currency exchange at our main office, the Roosevelt Agency and Loan and the Garfield Park, and the Lawndale. There is one more. The aggregate of those three requisitions on there is \$9,000. The requisition for Lawndale on February 1, 1936, was fifty halves; 30 singles, 20 dimes, 400 dollars in singles, 200 dollars in fives, eight \$100 bills, a total of \$1500.00. We got eight \$100 bills that day. I don't know who got those hundred dollar bills.

Q. If I asked you the same question about all the rest of these checks, you wouldn't know who got the \$100 bills, would you?

A. I couldn't truthfully say that I knew who received that money.

I don't know who got the \$10 bills or the \$5 bills or the \$1 bills. That is true of all these checks in these three bundles. I have no idea where the money was shipped to on check X-172-B for \$2500 on the back of which is marked five \$100 bills, four fifties, ten twenties, 110 tens, and 100 fives. They might have been used at my own 769 place. It is not designated at that place. I didn't read that one off with the hundred dollar bills. I missed that one because it was not specified for the Lawndale branch. Some of these checks I passed over as I went along because there was nothing pertaining to that particular question that I was asked.

Mr. Thompson: If your Honor please, without taking time to go through all of these, we object specifically to each of these checks, they have no probative value on the single question of \$100 bills being sent to Lawndale Currency Exchange, which I assume is the only possible ground they identified this by. We object to all of them on the ground that they are hearsay as to these defendants. Object to all of them on the ground that they are immaterial, tend in no way to prove the taxable income of the defendant William R. Johnson, and in no way tend to prove any aiding or abetting by the rest of these defendants in concealing his taxable income.

Mr. Miller: I notice that some of these don't have \$100 bills on them. As to those, I can pick them out and withhold my offer of those. As to the others, with the \$100 bills designated on them, I would like to have the Court rule on the offer. The sole purpose was to show \$100 bills. How some of these other checks got in here, frankly, I can't say.

The Court: We will recess at this time until 10:00 o'clock tomorrow morning. I will take that question up with you in the morning.

770 (Whereupon the following proceedings were had in the court room, outside of the presence and hearing of the jury, to-wit:)

The Court: I have read most of this transcript of the testimony of Stuart Solomon Brown before the Grand Jury. I don't think I will let more than the first session of that testimony in. I do not allow counsel here in court to badger a witness. And while I don't think that Brown

was badgered before the Grand Jury, yet he was examined repeatedly and was interrogated about the same matter time after time and time after time by three counsel and sometimes by the grand jurors. I don't think I should allow to be done indirectly what I will not permit to be done here in open court. I think I will let you put in the first session and no more of that.

Mr. Campbell: In connection with that, Your Honor, do you intend to exclude the second time he testified, about destroying the records, to-wit, where he described in detail how he tore them up and put them in a waste paper basket and put them in the furnace?

The Court: I think that if statements of a man before a Grand Jury are going to be offered as admissions against interest on the trial the examination ought to be very much like cross examination in open court. Take up a subject, finish it; take up another subject, finish it; take up a third subject, finish that. I don't think he ought to be interrogated about the same thing day after day and day after day if it is going to be used against him as admissions against interest on the trial. Let the first day's session go in. On the rest the objection will be sustained.

Mr. Thompson: Does that mean, Your Honor, the morning and the afternoon of the first day? I don't remember just what—

771 The Court: Yes, morning and the afternoon of the first day. That ought to have been concluded that first day. Ought to take up a part of it and pursue it just as far as necessary, not range over the whole field, and then range over it again, and range over it again.

Mr. Campbell: Couldn't we postpone this at this time, Your Honor? We don't intend to read it right now, anyway, or any part of it. Then we will indicate the pages and give you a connected statement of it.

The Court: Yes.

(Whereupon the following proceedings were had in the court room, in the presence and hearing of the jury, to-wit:)

Mr. Miller: At the close of yesterday's session, an offer was made of Government's Exhibits X-172-A to L, 173-A-2, 173-A-1, 173-B-1, X-174-A to Q, and I will ask leave at this time to withdraw that offer and make a new offer of some of the exhibits.

The Court: Very well.

Mr. Miller: I offer in evidence now, GOVERNMENT'S EXHIBITS X-172-D, X-172-F, X-172-G, X-172-L, X-172-I, X-172-J, X-172-K, X-172-L; and Government's Exhibits X-173-W-1, X-173-W-2, 173-T-1, X-173-Q-1, X-173-P-1, X-173-O-1, X-173-N-1, X-173-M-1, X-173-K-1, X-173-F-1, X-173-D-1, X-173-W, X-173-V, X-173-U, X-173-T, X-173-O, X-173-R, X-173-Q, X-173-P, X-173-N, X-173-H, X-173-G, X-173-D, X-173-E, X-173-C, X-173-F; also X-174-A, X-174-C, X-174-D, X-174-E, X-174-F, X-174-H, X-174-J, X-174-L, X-174-N.

Those are the checks, if Your Honor please, which show the \$100 bills to which the witness testified as shown from his records on the dates called for.

Mr. Thompson: I have had no opportunity to examine these documents, and I must take the word of the United States Attorney that he has compared them with the record as to dates, and so on.

Relying upon that statement, subject to our verification merely because we want to check these things, we object to these documents as hearsay testimony as to all of these defendants other than Mr. Flanagan; we also object that they are hearsay even as to Mr. Flanagan, because there is no showing that he ever had any knowledge whatever of any memorandum made on the back of these checks of this corporation.

We object to their materiality to any issue in this case; they do not even tend to prove, have no probative value whatever as to the amount of taxable income of defendant William R. Johnson for the years 1936 or 1937 or 1938 or 1939; it is an inference, and by that inference deductions may be made, and inference is the only foundation for the admission of these documents.

It seems to me it meets exactly the purpose of the hearsay rule, that one accused ought not to be faced with instruments they have no possible chance of checking, never saw, have no connection with them in any way, to verify them or dispute them.

(Here follows discussion between the court and counsel.)

The Court: The objection may be overruled as to these. Read them into the record.

Mr. Miller: X-172-L, X-172-K, X-172-J, X-172-H, X-172-F, X-172-G, X-172-D.

(The said documents, so offered and received in evidence, were thereupon marked as indicated.)

773 The Court: The objection may be overruled as to these. Read the numbers into the record.

Mr. Miller: X-174-A, X-174-C, X-174-D, X-174-E, X-174-F, X-174-H, X-174-J, X-174-L, X-174-M.

(The said documents, so offered and received in evidence, were thereupon marked as indicated.)

The Court: The objection will be overruled as to these exhibits. You may read the numbers in.

Mr. Miller: X-173-V-1, X-173-W-1, X-173-T-1, X-173-Q-1, X-173-P-1, X-173-O-1, X-173-N-1, X-173-M-1, X-173-H-1, X-173-F-1, X-173-D-1, X-173-W, X-173-V, X-173-U, X-173-T, X-173-O, X-173-R, X-173-Q, X-173-P, X-173-N, X-173-H, X-173-G, X-173-F, X-173-D, X-173-E, X-173-C.

(The said documents, so offered and received in evidence, were thereupon marked as indicated.)

ADELAIDE REBMAN, being duly sworn, testified as follows:

Direct Examination by Mr. Plunkett.

I live at 4844 Concord Place. I know the defendant Jack Sommers. I believe the first time I saw him was at Ogden and Crawford but I saw him at various places. That was about five or six years ago. I never met Jack Sommers at Ogden. The Horse Shoe was the only place, the first time I saw Jack Sommers. I first met him at the Horse Shoe about three or four years ago. It was located on Kedzie Avenue near Lawrence. It was a club where they had horse racing and all the games.

I did have occasion to play games there myself. I played a card game. They called it black and red, roulette with cards. I recall having a conversation with Jack Sommers the summer of 1938. They reduced the limit from five to ten.

774 Mr. Thompson: I object to any conversations with the defendant Sommers outside of the presence of these other defendants. There is no indication this is material by the question.

The Court: Overruled.

The Witness: The limit was reduced and the dealer told me to see Mr. Sommers, and I asked him why the limit was reduced. He told me that if I wanted a higher

limit, I would have to see Mr. Johnson. I asked him where I could see him. He said I could see him there in the evening, or I could see him at the Bon-Air Country Club.

I went out to the Bon-Air Country Club to see Mr. Johnson. There was a conversation at the Bon-Air Country Club between me and defendant Johnson. I asked him about the limit. He said that he would get in touch with Mr. Sommers immediately and have the limit restored. The limit was a ten and twenty dollar limit, then they reduced it to a five and ten dollar limit. I mean I couldn't bet more than five and ten dollars at one time. I wanted it restored to ten and twenty.

I know the defendant Martigan. I don't remember where I first met him, but I think he was one of the men originally that I first saw over at Ogden and Crawford. That was the first place I went; but I saw him at the Horse-Shoe Club, at Tessville, at Lincoln Tavern, the Stables. He walked around and checked up on everything, like a floorwalker. He looked around.

The name of the place at Ogden and Crawford was the 4020 Club, I think they called it. I have seen the defendant Sommers at Tessville and the Lincoln Tavern. By Tessville I mean the Dev-Lin. That is a similar club to the Horse-Shoe that I have described. When the Horse-Shoe would be closed they would go to the Dev-Lin.

I have seen the defendant Sommers at the Harlem Stables, at the Lincoln Tavern. It was within a period of four or five years that I saw him at these different places. On the occasions I saw him at these different places he would go to the different tables and watch, and walk around and if anybody had anything to say they went up to him and talked to him.

I have had occasion to hear other persons talk to the defendant Sommers lots of times. I do recall conversations I heard between Sommers and other persons. I cannot state the approximate time at which any of these conversations took place. My best recollection is that it was when I was playing but I couldn't say just when it was. I was playing there within the last five or six years.

I overheard these conversations mostly at the Horse-Shoe Club because we were more together there. I cannot say any certain date as to any conversation that I heard at the Horse-Shoe. It was in general all the time. I can't

say when. I heard many conversations. I would say in the winter, must have been in around 1938 at the Horse-Shoe Club. All the people around the table other than myself were present. I cannot name any of them. All I know is just there was a girl named Lenie and one Millie. I do not know their other names. There are a lot of other people whose names I do not know.

Mr. Plunkett: Q. Will you state what the conversation was that you heard on that occasion?

Mr. Thompson: We object. There has been no person named we can identify.

The Court: Let us see what was said.

The Witness: Mr. Sommers was there. He was called to the table over an argument. He just told them if they had any complaints to make them to Mr. Johnson.

Mr. Thompson: Now, we move to strike this general statement "If they had any complaints they should make them to Mr. Johnson," without any identification of persons or place or time.

776 The Court: You have the place fixed and you have the time. You have the presence fixed—overruled.

Mr. Thompson: We haven't any persons, Your Honor. Anyway, we move to strike it also as hearsay as to all these defendants and certainly as to the defendant Johnson.

The Court: Denied.

Cross-Examination by Mr. Thompson.

I played at the gambling houses, the 4020 Club, at Ogden and Crawford, and the Horse-Shoe, the Dev-Lin, Tessville and the Harlem Stables.

At different times when they would be closed they would go to another one.

I played at the Horse-Shoe when it was open. It was not the one most conveniently located to my home but that was the place they had the games. When I stopped going to Ogden and Crawford they stopped the games there. They only had them going at the Horse-Shoe. That is the game I liked to play at, that is black and red. That is roulette with cards, and I played that at the Horse-Shoe. I played black jack once or twice there and I think I played roulette once.

Black and red was the only game that I played at the 4020 Club and at the Dev-Lin and the Lincoln Tavern. At

the Harlem Stables I played black and red and I think once or twice I played black jack. I played that between playing at black and red. I stopped playing black and red and played just a couple of hands of black jack. Black jack is a card game.

I played black jack at the House of Niles and at the Casino. I never was at 2108 Lawrence. I never was at Indiana Harbor. I never played out at Cicero. I was never in the D. and D. Club. I was at the Casino and played there. I was at the House of Niles. You see when 777 they were closed they took us from Irving and Cicero out to the House of Niles. When I went to Irving and Cicero they had cars there. They took the people to these places in their cars. That is the Casino on Irving Parkway. That is the one Mr. Mackay operates. When Mr. Mackay was closed up in Chicago, then he would take his players that wanted to follow him out to the House of Niles or to the Horse-Shoe. The House of Niles is where he went in the country.

I used to go from Irving and Cicero and there over to the Horse-Shoe in a car. I would go from any place to any place to play black and red.

I never saw Mr. Mackay at the House of Niles. I was only out there twice. I don't know who was out there. When I was at the House of Niles I believe the Casino was closed. I believe when I played at the Horse-Shoe the Dev-Lin was closed. When I played at the Dev-Lin the Horse-Shoe was closed.

Q. That was Mr. Jack Sommers' town place at the Horse-Shoe, and his country place at the Dev-Lin, wasn't it?

A. Well, they were all there, not only Mr. Sommers. They were all there, Mr. Hartigan, Mr. Johnson.

I mean they were all at this place. I mean I would see quite a number of these men out in these places at various times. Mr. Johnson and Mr. Sommers were not the only men walking around. Mr. Hartigan would be walking around. I mean they were walking around as though they were interested in what was going on,—the managers like.

When I played this black and red I was pretty busy. I did not look up and see what everybody was doing in the room. It is a pretty close game and requires your attention.

You can beat that game with a limit. With a larger limit you can win a little bit. You can win more when the limit is higher than you can when the limit is lower.

I progress when the limit is higher. I play a suit, a 778 club or a heart. I would start with a dollar and raise it to a dollar and a quarter, and raise it a dollar and half, a quarter each time. Then when it turned up I would stop and play another suit. That is a real sure way to win in that game. You do lose when you follow that. The idea of having a high stake in that game is you have a better chance if you have more of a limit. Then you can bet more times by this quarter adding process if they raise the limit.

I said the limit was five and ten and I wanted it ten and twenty. I mean five dollars on a suit and ten dollars on an even money. That is, you can bet on this game ten dollars if I bet even money on black or red or high or low.

If you want to try this business of mine and put up a quarter each time, then the top you can go is five dollars. So that if you start with a dollar and go by, you can bet four, eight, twelve, sixteen, seventeen times. Then you would quit.

After you play on the suit, then you can play—or if you win it before that you can play on the high and low, black and red also. The object of wanting the limit to go high was for the simple reason that when you play so much and the card did not turn up when your limit came, if you played two or three times and your limit was up, why then you lost instead of winning. If you had a high limit, you could raise a little more. You got more chances to bet; therefore, more chances to win and by the same process more chances to lose.

When they put this limit of five dollars on this game, I did not get some people to go in and play with me as my agents. I was accused of it but I did not. I never did use any agent.

I have been playing this game of black and red for five or six years. I do not think I am pretty good at it. I have won.

I played my games at different times. I played in 779 the afternoon, I played in the evening until three o'clock some times. They are open until three o'clock and I stayed there until they closed up. They barred me

from playing at the Casino at Irving and Cicero. They did not tell me I couldn't play there because I couldn't afford to play that game and lose. They barred me because I found them taking cards up to the office. I did not bar the Casino instead of the Casino barring me. I complained to Mr. Meade. He told me if I didn't like it, I knew what I could do. He would not let me in any more. That is quite a long time ago.

I did not play at the Casino after Mr. Meade barred me from playing there. I never played at the Casino after that. I went to the Horse-Shoe Club. I don't know that Reg Mackay was the manager. He ran the Casino, he bought it from Mr. Meade.

I do not know Mr. Mackay.

Ordinarily Mr. Sommers settled disputes at the Horse-Shoe. I said that if things got too hot for him they had to see Mr. Johnson. He didn't bawl that right out in the gambling room. He did not whisper it. He would come over to the table and say it, just if you have any complaints to make them to Mr. Johnson. He didn't say where Mr. Johnson maintained his Complaint Department. Mr. Johnson used to come in there a certain time of an evening anywhere from nine to twelve. I won't say every evening because I was not there every evening. He would come in quite a few evenings. He did not come in every evening that I was there. He might have come in without my seeing him.

He used to stand up by the cashier's cage and different men that worked there, that would not be working, used to go up and talk to him. They used to stand around the table and say they came to see Mr. Johnson. They would go out to talk to him, so I imagine they did. He would talk to them. I do not know whether he went into the office or not. This would be when I was playing a game, I would see all of this.

I didn't get barred at the 4020 Club. The 4020 Club took the game off. It was not there when I went in. I never went back again. They just said they were not playing. I did not go back and check up on them after that. They did not bar me from the Harlem Stables. I played out at the Harlem Stables for quite a while when the Horse-Shoe was closed. I can't say what time. Out there it was still ten and twenty. The limit was taken off there at the Horse-Shoe. The Horse-Shoe was the last place

where they had the limit and that was the last place where they reduced the limit.

They closed the clubs. I don't know when. The Harlem Stables was closed for quite a while. I couldn't say when the last time was that I was in there. I think it was about two years ago.

I haven't been in the Lincoln Tavern for three or four years. I was out there just a few times. Sometimes one or two, sometimes ten, and sometimes thirty people played this game or black and red at one time. It is a table about the size of the counsel table there. It has the regular playing cards face up under glass, black and red alternating, and you play on these cards.

You play with chips. Some places they play with cash. They play dimes and quarters, but when it is dollars they have chips. The dealer deals a deck of cards. There is two decks of cards in a steel case. And he takes three cards out of the deck and turns them face down and the fourth card he turns up and the people around the table bet on that fourth card. If they win they get paid and if they lose the dealer takes the money, if you have your money on a club and the club turns up why you win. If

you have it on anything else you don't. If a club turns 781 up and if you are playing a club you win, or if you are playing the black you win. There is a suit along with the color and you could win odds on that suit. The suits paid three to one. I had a limit of \$5 on the suits, the three to one business. Where it was straight betting then the limit was \$10. That is what Mr. Sommers tried to make. I didn't like that limit and I went out to see Mr. Johnson at the Bon-Air Country Club. That was the only time I had ever talked to him. I went out there just because Mr. Sommers said if you wanted a higher limit to go out and see Mr. Johnson. I couldn't say who was present when he told me that. I can't think of a single person who was there.

The other players wanted a higher limit. I don't know if they told him the same thing. Mr. Sommers told me to go see Mr. Johnson if I wanted to raise the limit. I don't know whether he told it to anyone else or not. I went out to Bon-Air with a friend of mine who drove me out. I don't want to tell who.

Two of his men heard me talking to Mr. Johnson. I know they were his men because they were with him all the time.

Any time I ever saw him those men were with him, and these men came up to me first and then went and got Mr. Johnson for me. One of them was a Downey, and I don't know who the other man was. I don't know what his other name was, but he was one of the Downey boys. There are five or six of them, I believe. I do not know their names. I don't know which one of the five or six it was. I would know him to see him, but I don't know what his name was. These two men were always with him when I saw him. I don't know who the other man was. I couldn't tell you now what kind of a looking fellow he was. It was a couple of years ago.

I can remember the conversation with Mr. Johnson. I remember what was said. That was what I went out 782 for. He told me he would get in touch with Mr. Sommers immediately and have the limit restored. He didn't tell me that it was none of his business, that he had nothing to do with Mr. Semmer's gambling house. He told me he would get in touch with Mr. Sommers immediately and I could go right back right then and the limit would be restored. I didn't go back that night and the next day when I went back they didn't give me the higher limit. Mr. Johnson didn't keep his word.

That is the only time I ever talked to Mr. Johnson. I never did go out to Mr. Johnson's mother's house at 4224 Hazel Avenue and try to get in to see her.

Examination by the Court.

If you bet on the black and win, it pays even money. There is two decks in the case, one hundred and four cards, and the Jack of the cards is what they call a house card, and if you have your money on the cards and a Jack comes up the house takes it all. There are eight Jacks in this. If you bet on clubs and win it pays three and your money back, three to one. If you put a quarter on you get a dollar, your quarter and seventy-five cents back.

If the Jack of clubs turns up, they take it, unless you play on the Jack. You can play on the Jack. That pays \$3.20 for a dime. Thirty-two to one. So if you are playing a club and you are progressing and you have some money on the club, you can protect it by playing the Jack, and if it turns up, why, you can get \$3.20 for every dime on the Jack.

You can play the Jack of clubs and if you win and if

the Jack of clubs turns up you get thirty-two to one. If you play the ace of clubs and win—that is any individual card pays thirty-two to one.

Redirect Examination by Mr. Plunkett.

I can relate all the circumstances about this time at 783 the Casino that I was asked about when I was told I couldn't come back there.

W. J. BECKER being duly sworn, testified as follows:

Direct Examination by Mr. Miller.

I am Assistant Secretary, State Bank and Trust Company, Evanston. I have been employed in that position for five years.

I know William Goldstein. He is a lawyer. I handled a business transaction with him in the latter part of 1937. We sold an interest that we had in a property. It was known to us as the Columbian Country Club. That is the same property that is now occupied by the Bon-Air Country Club.

The sale took place in December, 1937. It was consummated in the office of our general counsel, Poppenhusen, Johnston, Thompson & Raymond. \$75,000 was paid for our interest in the Bon-Air. The earnest money of \$7500 had been paid previously and upon consummation of the sale \$67,500 was paid in the form of currency by William Goldstein, in the office that I have described. I don't distinctly recall how the first payment was made. All or a large portion of the bills were in denominations of \$100.00; at least a large portion of them were in bank wrappers, a strap that you put around a bundle of money.

There was one other party in the office at the time we were consummating the sale. He had nothing to do with this transaction.

Cross-Examination by Mr. Thompson.

Our bank, the State Bank and Trust Company, is a 784 client of your office, and this deal was consummated with one of your partners acting as the legal counsel in

the matter. There was a written contract preliminary to the consummation of this deal. I have that contract here. It was prepared in your office. The deal was consummated December 17, 1937. \$7500 earnest money was paid at the time of the execution of this contract by Mr. William Goldstein, and at the consummation of the deal the balance of \$67,500 was paid by William Goldstein. Preliminary to the preparation and execution of the contract there was correspondence by Mr. Goldstein with our bank.

(Document marked as Defendant's Exhibit J-6 for identification.)

This document that you have marked is a letter dated August 16, 1937. We got that letter in the regular course of business through the mails. It is signed by William Goldstein.

I saw Mr. Goldstein sign this contract and his signature is on there. There is no doubt in my mind who wrote that letter. Pursuant to that letter I telephoned Mr. Goldstein. I told him I was going on a vacation. I had received this letter and would telephone him when I got back from my vacation in the latter part of September. The man I talked to over the phone was William Goldstein. He is the man with whom I consummated this contract. I didn't meet any principal in this deal other than him. I didn't have any contact or dealings with any other person than Mr. William Goldstein.

MORBERT E. BIBOW called as a witness in behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Miller.

My name is Morbert E. Bibow. I am employed by the State Bank and Trust Company, Evanston, Illinois, 785 as Assistant Cashier. I have charge of the Real Estate Loan Department. I have had that position about five years. I know Mr. William Goldstein. When I met him he was an attorney. I met him in the office of our general counsel in the fall of 1938. I had a business transaction with him at that time. We had some property for sale. Mr. Goldstein was interested in purchasing it. The property was located in Lake County, Illinois, in the vicinity of the

Bon-Air Country Club. An agreement was made with Mr. Goldstein which was signed.

Mr. Goldstein paid \$7500 to the bank in the form of currency. The money was paid on July 28th, 1939. That transaction has not been consummated. It is still pending. We still have the \$7500.

Cross-Examination by Mr. Thompson.

I have the contract with me that was prepared in your office and that was executed on the date it bears, the 28th of July, 1939. The \$7500 earnest money was paid at the time of the execution of this contract by Mr. Goldstein. I had no correspondence with Mr. Goldstein respecting this deal we are talking about now. I am not familiar with this letter, which is marked defendant's Exhibit J-6 for identification. I have never seen this letter before. That is addressed to Mr. Becker, my associate. I read that this letter dated August 16, 1937, relates to the Columbian or Bon Air deal. Excepting William Goldstein, I know the real estate broker in this deal of July, 1939, that is all.

The deal came into the bank through the real estate broker, I believe for the purchaser. And Mr. Goldstein then followed that up by making this contract and depositing the money. I don't know anybody else in the transaction. I don't know who the principals were that Mr. Goldstein was representing, if there were other principals.

786 In one conference Mr. Goldstein said that before the deal was consummated that he had to talk to a couple of other people about this thing. He didn't mention any names.

V. W. BECKING, called as a witness in behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Miller

My name is V. W. Becking. I live at 1425 Joncull Terrace. I am the cashier, since June 15, 1936, for the North Shore National Bank of Chicago, located at 1737 Howard Street, Chicago.

I have supervision of employees, cash, accounts, books and records of the bank.

I know the defendant Stuart S. Brown. I met him in July, 1938, as a customer of the bank. I see him in the court room (indicating the defendant Brown). I had business transactions with him as a customer of the bank after I met him in July, 1938. The nature of the business was a deposit to the account of the Lawrence Avenue Currency Exchange, a checking account in the bank.

I have seen Government's Exhibit X-182 for identification, before. It is a signature card pertaining to the Lawrence Avenue Currency Exchange account carried with the North Shore National Bank of Chicago. That was not opened by me personally. It is part of the permanent records of the bank, kept under my supervision and control in the usual and ordinary course of business. It is customary in our business to keep such records. The account was opened in July, '38, and was closed out some time late in September or early October of the same year.

We do keep a record of checks cashed at our bank. 787 The checks cashed and deposited at the bank are run through a recording machine for photographing, called the Recordak. After that the films are sent to the company to be developed and returned to the bank and remain in my custody. Every check that is received at the bank goes through that same procedure whether it is deposited in an account or cashed over the counter. These films are returned to us and then become a part of the permanent records of our bank.

We have a reproducer which is furnished with the original equipment and we reproduce the original film to refer to these records, to get the information off of them. That was done on a screen. It is reproduced on a screen combination.

Government's Exhibit X-183 for identification is a ledger sheet pertaining to the checking account of the Lawrence Avenue Currency Exchange, which was carried with the North Shore National Bank of Chicago. It covers July 2, 1938 to October 20, 1938. That is part of the permanent records of our bank. It is kept by us in the usual and ordinary course of our business under my supervision and control. It is usual and customary in our business to keep such records.

Government's Exhibit X-183 contains the record of the deposits and withdrawals pertaining to the account of the

Lawrence Avenue Currency Exchange for the period covered. I have seen Government's Exhibit X-181 for identification before. It is a partnership agreement given to the North Shore National Bank of Chicago in connection with the Lawrence Avenue Currency Exchange account which was opened on July 23, 1938. It is part of the permanent records of our bank. It is the usual custom in our business to have such a record as that.

Government's Exhibit X-185, A to R, inclusive, for identification, is the developed film of the records of the 788 bank for the periods covered on the box, each box.

The boxes are dated. Those films were produced here by me in response to a subpoena. I did see these films projected. It took place at our bank. I don't remember the exact date. Some time maybe in late January or early February of this year. Two Government agents were at the bank and we examined the film. Those films are part of the permanent records of the banks, kept under my supervision and control. They are kept by us in the usual and ordinary course of our business. It is customary in our business to keep such records.

I have seen Government's Exhibit X-184, A to A-1, inclusive, in a bundle of 27 sheets, before. They are deposit tickets pertaining to the checking account of the Lawrence Avenue Currency Exchange carried with the North Shore National Bank of Chicago. They are part of the permanent records of our bank, kept by us under my supervision and control.

Mr. Thompson: We admit his answer to the qualifying questions will be the same as he answered the others.

Mr. Miller: That is an admission as to Government's Exhibit X-184 for identification, 184-A to A-1.

The last time I had in my possession the box containing the cartons containing the films marked X-185-A to R, both inclusive, was August 1st of this year. The films were delivered by one of the other gentlemen in the bank, I was on my vacation at the time, to the District Attorney's office. I have not seen them since. There is no way to tell whether or not the film that is in this box, marked "Government's Exhibit X 185-D," which is dated July 30, 1938, is the film for that particular day, unless it is reproduced. I don't know whether the spool you now hold in your hand contains

the film for that day or not. There is a date on the film which will show that. That date is microscopic, so that you can't see it without a reproduction through some mechanical device. I can't tell by looking at this spool of film you hold in your hand whether it is the film that belongs in that carton or not. As far as I know, none of these films here record any checks that were handled for the Lawrence Avenue Currency Exchange unless they were reproduced. The films that I delivered did record the transactions. Each spool of film will take somewhere between six and seven thousand impressions. Each one hundred feet of film has somewhere around six or seven thousand checks on it. I have no idea how many checks of the Lawrence Avenue Currency Exchange are on any particular film. These deposit slips list the checks that were brought in by the Lawrence Avenue Currency Exchange for deposit on the days indicated on the several slips and in the amounts indicated on the slips. I don't know anything about whose checks those were or anything of the sort, except such as would be revealed by these films if they were properly exposed.

Government's Exhibit X-183, consisting of two sheets of three pages of figures, is simply a totaling of the 790 deposits made from day to day, as they appear from these deposit slips which are X-184, etc. The first deposit here was \$1,000 of currency on July 19, 1938, and that is the first item on the top of this sheet. I don't know anything about who were the customers of the Lawrence Avenue Currency Exchange or anything about its business. The account was not opened by me personally. I don't know whether Mr. Brown came in to sign the signature or whether the cards were taken out and signed. I know that the signature on here is the signature of Mr. Brown by reason of later transactions.

I do not know the signature of Bernice Downey. All I know about that is that it is on this card.

Redirect Examination by Mr. Miller.

We have what we call a teller's sheet, which will record the amounts of the checks cashed at our bank, no other information about it.

Mr. Miller: We offer at this time Government's Exhibits X-182, 183, 184-A to A-1, inclusive, X-181, and X-185-A to R, inclusive; and there is a Recordak projecting

machine here for the purpose of examining Government's Exhibits X-185-A to R, inclusive, the films.

Mr. Thompson: We challenge the competency of Mr. Miller to testify as to whether this machine will properly reproduce these films.

We object to Exhibit X-181 and Exhibit X-182 as hearsay as to all defendants except the defendant Brown, and as immaterial to any issue in this case, and in no way tending to prove the taxable income of the defendant William R. Johnson.

We object to the block of deposit slips under X-184 as being hearsay as to all defendants excepting the defendant Brown, as being immaterial as to all defendants, as tending

in no way to prove the taxable income of the defendant 791 Johnson, and having no probative force as to whether

or not there was any evasion of payment of proper tax on the taxable income of the defendant Johnson, and any activity on the part of any of these defendants in pursuance of any conspiracy to evade such payment.

We object to Exhibit 183, which consists of three pages of figures, on the same grounds that we objected to X-184.

Now, as to this boxful of cartons, which contains what appears to be some film that have been developed and replaced on spools, which stand under X-185-A to R, both inclusive, we object on the ground that they are unintelligible, that they are not presented in a manner that can be seen by the jury in the presence of any of these defendants. These defendants have a Constitutional right to be faced by all witnesses, the production of all evidence in a conscious manner. And that all of these exhibits are immaterial as to all of these defendants on the grounds stated as to the previous exhibit, and that they are hearsay as to all defendants except possibly the defendant Brown.

The Court: Exhibit X-182 may be received. Objections will be overruled.

(Said exhibit, so offered and received in evidence, was thereupon marked GOVERNMENT'S EXHIBIT X-182.)

Mr. Miller: Due to lack of time, it has just been explained to me, there are twenty-seven slips. The first one was marked "184-A" and the last one was marked "184-A-1," it being understood that the balance of them would be 184-B, C, D, E," et cetera.

The Court: They may be so marked and they may be received. The objection will be overruled. Let them be marked. They are not marked now.

Mr. Miller: Yes, sir.

792 (Said documents, so offered and received in evidence, were thereupon marked as Government's Exhibits as above indicated.)

The Court: Government's Exhibit X-181 may be received, and the objections thereto may be overruled.

(Said exhibit, so offered and received in evidence, was thereupon marked GOVERNMENT'S EXHIBIT X-181.)

The Court: Government's Exhibit X-183, for identification, may be received, and objections thereto may be overruled.

(Said document, so offered and received in evidence, was thereupon marked GOVERNMENT'S EXHIBIT X-183.)

Mr. Miller: X-185 is in that offer, if your Honor please. Those are the films. Do you want to see them—185-A to R, inclusive.

The Court: Did you folks in the bank read these exhibits, 185?

The Witness: Reproduced them on a screen we have, furnished by the company for that purpose, and we have permanent equipment with the bank at all times to use when we want it.

The Court: Is this one of them, over here? (Indicating.)

The Witness: That is the type of equipment, right there.

The Court: Come over and look at it. Is that the sort of machine you used to examine the films?

The Witness: Yes, sir.

The Court: The films may be received, and the objections thereto may be overruled.

(Said documents, so offered and received in evidence, were thereupon marked GOVERNMENT'S EXHIBITS 185-A to R, inclusive.)

793 J. W. McGINNIS, being duly sworn, testified as follows:

Direct Examination by Mr. E. Riley Campbell.

I live at Deerfield, Illinois. I have been cashier of the Deerfield State Bank for eleven years. We have four employees besides myself. That was true over the period '38 to '39. During that period Mr. William Lutz was the

teller. Miss Ruth Johnson was engaged in the general work in the loan department, principally. I was the superior officer in charge of the bank. There was no one else above me in authority there.

Government's Exhibits X-208, X-209-A to X-209-E-1, inclusive; X-210-A and X-211, are part of the records of my bank, kept under my supervision and control. It was in the usual course of business to keep such records as that. The entries appearing thereon, with the exception of X-211, were made at or about the time of the transaction to which they refer. Those Exhibits, for identification, except the last one, X-211, are deposit slips of money deposited in the bank.

X-208 was the signature card of the depositor, The Lightning Construction Company, not incorporated, by Roy H. Love and John W. Geary.

Exhibits 209-A to 209-E-1, inclusive, are deposit tickets of money deposited in the bank on that day in the account of the Lightning Construction Corporation.

X-210-A is a ledger sheet pertaining to the same account. It was the regular custom and practice of the bank to keep correspondence pertaining to the accounts of its customers.

Exhibit 211 is a letter enclosing some checks to be deposited. By looking at this exhibit I can tell that the account was open on December 13, 1938. That is the date of the signature card. The first deposit may not have been on that day. The first deposit appears on December 19, 1938; the last deposit on July 31, 1939.

The ledger sheet 210-A shows a deposit and checks drawn against the account, and the balance from day to day. Mr. William Lutz must have taken nearly all of these deposits at the window of the bank. That would be the regular course of procedure at the bank. The only way I can recall taking in any of the deposits is by the deposit slip bearing my writing. July 27th bears my writing. That is Exhibit X-209-D. I took that deposit in by mail, five checks. That is the only deposit ticket bearing notations by myself or indicating that I took the deposit. The only thing I can think of that would be unusual about that account was that nearly all deposits were currency alone. That was a little bit unusual for our bank. In our bank it does not require a lot of currency to operate. Currency coming in in large amounts usually never goes into the vault. These deposits were always sent by Brinks', Inc.

I am not so familiar with the denominations of the deposits in currency shown in that account. I am more familiar with the amounts.

The currency items deposited for that account were always sent out by Brinks, Inc., on the day it was received, or the morning following, to our correspondent, the Northern Trust Company of Chicago. I don't think there were checks drawn against that account as soon as that currency was deposited. I just remember that occasionally there were large bills deposited for that account. By unusually large bills I mean larger than we were accustomed to receiving. One hundred dollar bills and up are unusual in our bank. One hundred and five hundred dollar bills and thousand dollar bills. We had some of those in those deposits. I am not so familiar with the number of them, but we did have those large bills.

795 Mr. Thompson: We move to strike all the testimony as immaterial and tending in no way to prove the income of the defendant Johnson, and is hearsay to every defendant in this case.

The Court: Overruled.

Mr. Campbell: I would like leave to withdraw the originals and substitute photostats for those, if in that time they are offered in evidence.

Mr. Thompson: No objection to that request, but there is an objection to the exhibits.

WILLIAM FRANK LUTZ, being duly sworn, testified as follows:

Direct Examination by Mr. Campbell.

I live at North Brook, Illinois. I am a school teacher at North Brook High School. Prior to that I worked in the Deerfield State Bank.

I know that Government's Exhibits 209-A to 209-E-1 are deposit slips in the Deerfield State Bank, where I was employed. I had something to do with the taking of the deposits of some of them. I did not have anything to do with taking that particular deposit, #209-A. I don't know if I had anything to do with taking the deposit 209-B. I can't tell by looking at each individual deposit what deposit I took, because there are no identifying marks on the deposit

ticket. The form of the deposit for the most part was currency. To my recollection bills were deposited from \$100.00 bills to \$1000.00 dollar bills. That would apply, as a class, to the deposits in odd figures. The majority of the one-hundred dollar, five hundred and one thousand dollar bills were new bills. They were wrapped in the ordinary currency strap. When the depositor cashed a check drawn 796 against that account they were usually in small denominations. Sometimes silver was given also. I did not, in the course of the conduct of this business in the bank, become acquainted with the depositor. I never met either one of them.

Cross-Examination by Mr. Thompson.

I do not know the exact amount that was ever deposited at one time. I don't know the exact amount of the thousand dollar bills either. I can't tell you how many five hundred dollar bills. There never was a block of thousand dollar bills with a regular currency tape around it. I don't know if there ever was a block of five hundred dollar bills brought in with a currency tape around it. There was a block of hundred dollar bills brought in with a currency tape around it.

A small bank very seldom runs across any hundred dollar bills. It is entirely up to the person who makes such a shipment as to how many hundred dollar bills are in a package. This tape that I am talking about is the regular printed tape, but they run in different denominations, going from fifty dollars all the way up to two thousand dollars. When we bundled up some one dollar bills in the regular course of business there would ordinarily be one hundred in a tape. They have a regular printed tape with a dollar sign, one and two naughts on it. They put it around this package of hundred dollar bills and toss it to one side.

There is two hundred and fifty dollars of five dollar bills in a package. You put fifty five-dollar bills into a package and put a two hundred and fifty dollar tape around it.

You put fifty ten dollar bills in a package. That would be five hundred dollars.

We would put twenty-five twenty dollar bills in a package and put a band around them. There would be five hundred dollars printed on it. I don't know how many hundred

dollar bills I would put in a package because our bill
797 straps only had denominations of five hundred dollars.

When we wrapped any more money than five hundred dollars we wrote the amount on the bill strap—that is, we turned the bill strap over and wrote the amount on the bill strap.

We usually made up shipments of two thousand dollars. That was our limit with the Brinks Express. If we had that many hundred dollar bills that is how many we would ship. We would put twenty under a band to make a two thousand dollar bundle if we had that many. Twenty bills would not be over a half an inch thick.

I never had the experience of putting five hundred dollar bills up under a band. A five hundred dollar bill is no thicker than a one dollar bill, and no bigger in size. All the bills are the same, of the new currency, up to one thousand dollars. The largest currency deposit made on that bunch of slips there is ten thousand dollars. I don't know if I took that deposit. There is no identification. I have no reason to put my handwriting on these deposit tickets. There is no one else's handwriting that I know on the ten thousand dollar deposit tickets. There is one of \$3,800.00 with my figures on this particular deposit slip, so I can identify that one. I don't know what denomination those deposits were made in. The ticket shows that it was currency. I don't know whether that was three one thousand dollar bills, one five hundred dollar bill and three one hundred dollar bills. I don't recollect the deposit at all. I don't recollect any particular deposit that came in that can tell me how many bills were in that deposit.

Q. Well, why do you say then that these deposits were made in thousand dollar bills, five hundred dollar bills and one hundred dollar bills?

A. We took the deposits as a whole. I took the deposits as a whole, as it came in.

It was not suggested to me at any time that I say that
798 there was some thousand dollar bills in these deposits.

If you asked me a question what I thought, that is what I would tell you, what my recollection of those particular deposits would be.

If a one thousand dollar bill came in to the Deerfield Bank I would probably remember that forever. I would say there were three or four one thousand dollar bills deposited in that account. Those three or four were depos-

ited one at a time. I can't tell you definitely at what time.

I don't know how many five hundred dollar bills were deposited in that account over the whole period of time. I never did take a five hundred dollar bill and deposit it myself. I do not know how many one hundred dollar bills were put through that account. I did take a deposit which had a hundred dollar bill in it. I don't know how many.

I did say that when checks were cashed at our bank and money was paid out it was usually in small bills or silver. I would say one check a week was cashed at the bank. I can point out the person who cashed the check if I saw him. He was not pointed out to me by agent Sommers as I came into the door of the Courthouse. He didn't point out anyone to me. None of the defendants were pointed out to me by anybody. I absolutely don't know any of the defendants. I wouldn't know the name of the man who cashed the check out there. If I would see him I could point him out. I have not looked for him.

I think Exhibit X-210-A would show the number of checks cashed there. These ledger sheets, under the listing of "checks in detail"—some of these checks were cashed over the counter, some were cleared through the clearing house. Our affiliate bank is the Northern Trust Company. Some of the checks came from the Federal Reserve, that is the clearing checks. I can not tell which check was cashed over the counter.

799 Mr. Campbell: At this time, may it please the Court,

I offer in evidence the exhibit for identification, about which the last two witnesses were questioned, with the exception of 211, a piece of correspondence attached to the file.

Mr. Thompson: We object to X-208, which seems to be a signature card. There has been no proof of the signatures. All the proof is that this is a piece of paper in the bank as a part of its files and records. We object to that exhibit and all the rest of the exhibits as immaterial to any issue in this case and tending in no way to prove the taxable income of the defendant Johnson, and having no probative force to any of the other issues of the indictment and that it is hearsay as to each and every defendant in this case.

The Court: I think I will sustain that first objection.

Mr. Campbell: The identification of the signature? Is the balance of it received?

The Court: No, I think you ought to identify those signatures in order to make the account relevant.

Mr. Campbell: I will withhold the offer pending the connection.

HELEN KOOP, being duly sworn, testified as follows:

Direct Examination by Mr. Plunkett.

I live at 5542 West Leland Avenue. I am employed by the Albany Park Safe Deposit Vault Company, 3424 Lawrence Avenue. My employer at that place is Mr. William Goldstein. I have worked there four years. He was not my employer when I was first there. He became my employer July 20, 1937. The Lawrence Avenue Currency Exchange change was opened in that building. It opened July of 1938, and remained open until September 30th, 1939.

I knew the defendant, Stuart Solomon Brown, and Miss Downey, in connection with the Lawrence Avenue Currency Exchange. I had a conversation with Mr. Brown at the time this place first opened up. He came in and told me that he was the gentleman that Mr. Goldstein sent out to look at the premises in connection with opening a currency exchange.

We spoke about the currency exchange on Kimball Avenue, which is a block away from the bank building. I am the vault custodian at that building. The building is approximately as long as this room, and the vault is at the rear of the building. I sat back at the vault. It is my duty to let customers in and out of the vault that have safety deposit boxes there.

Henry Brandt is employed at that bank. He does the janitor work there and is also a special police officer. There were no other tenants of the building except this Lawrence Avenue Currency Exchange that I refer to. It is a one-story building and there is a balcony in the rear. It is an empty bank building. The building is on the North Side of Lawrence Avenue, at the corner of Bernard Street, and, as I say, it is about as long as this room and probably as wide, and there are tellers' cages on the East as well as the West side of the building, and Mr. Brown's cage is on the West side of the building. I was able to see, from where I sat, that he was in the cage. I could see the persons who

were coming in and out of the building. I did observe customers in the Lawrence Avenue Currency Exchange coming in and out of the building during the time it was open. I did see people coming in and out.

I remember Mr. Sommers coming in to do business with the Lawrence Avenue Currency Exchange (indicating the defendant Sommers). I saw him in the currency exchange almost every day during the entire period that it was 801 open. I should say it was probably right after lunch time, maybe one o'clock or so. I don't know what he was doing when he came into the currency exchange. He did not come up and talk to me. He was in Mr. Brown's cage—he was talking with him.

I remember seeing the gray haired gentleman with the glasses there, Mr. Creighton, in that Lawrence Avenue Currency Exchange (indicating the defendant Creighton). I did not see him very often—I don't believe it was more than four or five times that I remember. I can't say definitely whether it was in the morning or afternoon.

I saw the defendant Johnson in the currency exchange. I saw him there on two occasions. On the two occasions I saw him he was talking with Mr. Brown. I believe the first occasion was early in the summer of 1939. I would say he was talking to Mr. Brown about five or ten minutes at the most. The second occasion was also in the summer of '39. He was also talking to Mr. Brown on that occasion. I did not observe how long he stood there talking to him. I was leaving the building when he was still there.

I might know the binders that were kept by the Lawrence Avenue Currency Exchange, but I don't know what the records were. I did observe that there were records kept. They were kept in the book vault on the East side of the building at night. That is on the main floor, on the opposite side of Mr. Brown's cage. There was what you call a book vault over there and that is where they are kept.

I recall the day the currency exchange closed—it was on a Saturday, September 30, 1939, about 1:30, I believe. The books and records of the currency exchange were placed in the book vault at that time. They stayed in that book vault about a week or ten days. After that they were removed to the basement. I did at that time have a conversation with the defendant Brown. I asked Mr. Brown whether he 802 wouldn't move the records to the basement, as someone else had spoke about opening up another currency exchange. and after that conversation the books were re-

moved to the basement, by Mr. Brown and Miss Downey, who was Mr. Brown's partner. She was at the currency exchange during the period of time it was open. I believe she waited on the customers that came in for money orders, and cashed checks and, I believe, she worked on the books.

I know where the books and records were removed, to the basement, from the book vault on the first floor. We had a storage room down there, also a book vault, and part of them were placed in a cupboard on the lower shelf and the others were placed in file cabinets that the vault company stored dead records in. That was about ten days after the exchange had closed. They were down in the basement probably another ten or fifteen days after the ten-day period I referred to.

I had occasion to go in the basement I have described during that period of time. I saw packages wrapped in brown paper, newspaper, and there was a large cardboard box about that long (indicating) in that room in the basement. There were canceled money orders in the box. I had occasion to look at the money orders. I had a telephone call from the Peoples Gas Light & Coke and they were inquiring about a check that had been purchased from Mr. Brown, and they wanted information immediately, so I went down and I looked in the box where the checks were. The books and records remained down there about ten or fifteen days after they were first brought down there. At the end of that time they were taken out by Miss Downey, the same Miss Downey I have been testifying about, that was in this exchange with Mr. Brown. A young lady was with her when those were taken out—I believe it was her sister. Mr. Brandt helped carry them out.

Government's Exhibit X-195 is the box that I was looking in down in the basement. The contents of the box are 803 the ones I was looking at at that time.

I had occasion to see the defendant Brown after the closing of this currency exchange on the 30th of September. He came in every day for about a week or ten days after they closed. There was not any definite time when he usually came in. It was usually in the morning. He would stay probably a half hour—maybe three quarters of an hour. I never observed him tearing up any papers or any ledger sheets during the period, that I know of.

I think I did see Mr. Brown after the books were brought down in the basement from the vault on the first floor. I don't think he came in every day after the first ten days

because he would come in to get his mail and after that there wasn't much of it.

Cross-Examination by Mr. Thompson.

I have been working at this bank building since 1936. There are no other employees there at the present time. The janitor, Mr. Brandt, was there—just the two of us. The bank that was in the building, I believe, closed in 1931—I don't know—I was not employed there. I came there long after the bank was closed. I came to the Albany Park Bank Building with Mr. Carter Harrison, Jr., Receiver of the Jefferson Park Bank. At first I was an employee of the Receiver of the Jefferson Park Bank. Mr. Harrison received the Albany Park Receivership, and when the Jefferson Park Bank Building was sold he moved to the Albany Park Building and made that his office.

I got this job as custodian of the vault in July of 1937. Mr. Goldstein hired me for the job after the Albany Park Bank Building was sold, but when I came to the building with Mr. Harrison I immediately took that job.

When Mr. Goldstein became the spokesman for the building I went to work for him, and have been working for him ever since.

I pay my salary out of the income. I account to Mr. Goldstein for my services.

This bank building was not empty the entire time until this exchange came in, which Mr. Brown established. The Receiver's Office was in there.

The part of the building used in banking facilities was empty around one year before Mr. Brown came there and put in this exchange. Mr. Brown had told me that Mr. Goldstein had sent him down there to see me about putting in an exchange, and I made arrangements with him for rent, and Mr. Brown paid \$50.00 each month as rent for this exchange. He only occupied a small space in one corner of the floor—the cages. He worked back of a teller's cage and when the customers came in to get service they would walk up to the cage just like any other bank building and transact their business through the grating.

I said that on one occasion along in the early part of summer, 1939, I saw Mr. Johnson come in there and walk up to the cage and talk to Mr. Brown. My recollection is that Mr. Brown was there and he talked with Mr. Brown. I don't know what they talked about. I don't know any

transaction that took place there. I should say I was about twenty-five or thirty feet away. He stayed a few minutes—I don't know exactly how long. Nothing unusual occurred that I noticed.

I didn't know who Mr. Johnson was then. He did not attract my attention. I didn't know it was Mr. Johnson until after I had seen his picture in the papers. That was when I found out it was he. I am quite sure that the picture that was in the paper was the picture of the man I had seen in the exchange a year ago, exchanging a few remarks with Mr. Brown. This same man that I saw 805 come in there and speak to Mr. Brown one day came in on another occasion. He was at Mr. Brown's window for a few minutes and I was closing up the vault, when I saw him still standing there when I walked out of the building. He walked up to Mr. Brown's cage. He was there a minute or so and I went out. I didn't pay any attention to what they were doing. I saw no transaction take place between them. I didn't, at that time, know who Mr. Johnson was. I didn't know him by name. I didn't know him at all except that it was some man that I thought I had seen in there a few months before—a few weeks before, and about a year after that I saw a picture in the paper, and I said "There is the fellow I saw in that currency exchange". Nobody suggested to me that that picture was the same person that I had seen in the currency exchange.

The books were placed in the big vault on the bank floor every night—I imagine they put them in there again when the exchange closed. I saw them carry them from the cage to the other side of the building. I didn't follow them to see whether they went into the big vault but I just assumed they were being put in there again. When I had a chance to rent this space to another currency exchange I asked them to remove them from the book vault, and they did. I didn't see them do that, but I heard the wrapping paper and I knew that they were wrapping up what they took out of the file. I didn't watch them take them things out of the vault. I just asked Mr. Brown whether he would remove them.

When the currency exchange closed, whatever they used in the cage, whether it was books or money or anything else, was taken out of the cage and carried across to the other side of the building and placed in that book vault.

Now what they placed in there I don't know—I didn't watch them. I didn't go into that cage after they left. 806 Mr. Brandt cleaned up after they left. I didn't see him remove any books. A couple of weeks later I had a chance to rent the space, and I asked them to remove whatever they had out of these files, and they came down there and worked at that job and I assumed they moved whatever was there. I know it was empty when they got away from there. They went in the basement. What they had wrapped and what was in the boxes they took into the storage room in the basement. I have a cupboard down there that I keep my stationery in for the vault company and they use the lower shelf of that cupboard, which is about that square (indicating). They had whatever it was on that shelf. And then I have boxes down there with entry tickets, dead files, and they had put the rest of their things on top of these boxes. This material that they took downstairs was stored in the open storage room down in the basement. Anybody that was down there had access to these books and papers. I went down there to look at some of these papers when this inquiry came from the Commonwealth Edison Company. I looked into this box here that has been exhibited to me by the United States Attorney. I didn't make any more careful inspection of its contents at that time than I did when I identified it here. I didn't have time to look at anything else but in that box because the man was waiting on the wire. I looked through there to find this particular document that I was looking for. I remember that box, and it has the money orders from the Lawrence Avenue Currency Exchange in it. I think this is the box because it was that size and shape—I believe Mr. Brown only had one box like that. I think this is the box. I don't remember whether it was fastened or not. I had to get the check.

I saw the Lawrence Avenue Currency Exchange money orders. That box is down there in the basement, along with some other boxes and papers. I didn't look in this particular box because I knew that was where the 807 money orders were. It was the only box down there like that.

I saw Mr. Brown file money orders in that box, so I knew where to go. If I remember correctly, I know some packages were wrapped in brown paper and I think there were also packages wrapped in newspaper. I don't know how many packages.

I said that a couple of weeks later I saw Miss Downey come in and take out some papers. It was probably a little over three weeks before Miss Downey came in and carried away some of these papers. I don't know how many packages or books she carried out. I knew she took some because she passed my desk and had something under her arm. I don't know what she had—I didn't pay any attention. I know she walked past my desk and I knew she was carrying something—I don't know what she was carrying. I just know that she came in and got something out of the basement. What she was carrying I don't know. That was some three weeks after the exchange was closed. That was a week or so after I had told them to remove the boxes from the safe down to the open basement storage room. I didn't talk to Mr. Goldstein anything about all that business that I remember. I didn't take the matter up with him at all.

It is hard to say how many people came in and out of this exchange every day while it was operating there because I have people coming into the vault. I have an average of thirty-five to forty a day coming into the vault. I don't know how many came into the currency exchange—I wouldn't know exactly. I don't know whether there would be as many as one hundred or more that came in and had checks cashed every day. I don't know definitely. I don't think there were that many. A lot of people who came into the vault also stopped at Mr. Brown's window and did business with him.

I saw Mr. Creighton come in and go out. I remember him. I think I said about a half a dozen times in this whole period of time. He didn't stay very long when he 808 came in. I shouldn't say that he was in there more than five minutes.

I saw Mr. Sommers in there a whole lot. I don't remember the faces of anybody else I saw in there. I don't recall seeing Mr. Hartigan in there. I don't remember him unless these men look different with their hats off.

I don't know if Mr. Johnson took his hat off when he came in. I wouldn't remember whether he had his hat on or off when he was talking with Mr. Brown at the window.

Q. Did he have his hat on or his hat off when you saw his picture in the paper?

A. Well, he had his hat partly on and partly off.

Q. Sort of nonchalantly tossed over one ear; is that right?

(No audible answer.)

Q. What about it, Miss Koop?

A. I think in the newspaper he had a hat on, if I remember correctly.

Q. You think in his picture he had a hat on, and in the vault he had his hat on or off?

A. I don't remember.

I could tell from his picture in the newspaper that his hair was not dark—it was either gray or very light. I couldn't tell the color of his eyes from the newspaper clipping.

Q. Could you tell how tall a man he was from the picture you saw in the newspaper?

A. Well, the description told me that.

Q. Oh, there was a description in this newspaper too, was there?

A. Sure.

Q. It said, "Bill Johnson, six feet, two inches tall, four feet wide, and so thick"; is that right?

A. That is close.

809 H. M. ENGSTROM, being duly sworn, testified as follows:

Direct Examination by Mr. Miller.

I have been vice president of the Gary-Wheaton Bank, Wheaton, Illinois, for eleven years. I am acting manager of the institution.

I have met William Goldstein once. He is a lawyer. I had a business transaction with him. The nature of that transaction was an escrow, deed and money escrow. It involved a deposit of funds with us—also a deed, which we were instructed, according to the escrow agreement, to record, and have the title company furnish letter of opinion. It was covering the sale of real estate in DuPage County.

I was paid \$16,950.00 in the form of currency by William Goldstein in pursuance to that escrow agreement. To the best of my recollection the denominations of the bills were tens and twenties. That is about all I can remember of the denominations.

I have seen Government's Exhibit E-41, for identification. That is a deed and money escrow agreement, exe-

cuted in my presence by William Goldstein. That is a part of the permanent records of our bank, kept under my supervision and control. It is kept by us in the usual and ordinary course of our business. It is customary in our business to keep a record of that sort.

Mr. Plunkett: I will offer Government's Exhibit E-41.

Mr. Thompson: My only objection is it is immaterial, and it does not tend in any way to prove the taxable income of the defendant Johnson, and as to all other defendants, purely hearsay.

810 The Court: Overruled. It may be received.

(Which said document so offered and received in evidence was marked GOVERNMENT'S EXHIBIT E-41.)

(No cross-examination.)

(Witness excused.)

HENRY BRANDT, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Plunkett.

My name is Henry Brandt. I live at 5206 West Ainslie Street. I am employed by Mr. Goldstein in the Albany Park Safe Deposit Vault Company. I have been working there about two and a half years as a special police officer and janitor. I was working there while the Lawrence Avenue Currency Exchange was located there. Mr. Brown and Miss Downey worked in the exchange.

I see Mr. Brown in the courtroom.

My hours at this bank building, while the currency exchange was located there, was from nine to five thirty. I was there until the currency exchange closed every night. I was on duty out there every day during the period this currency exchange was open. I went out to the corner to get something for lunch and bring it in and have lunch inside. I had occasion to observe the persons who were coming into this currency exchange while it was open.

I see persons in the courtroom that I saw at that currency exchange. I saw that gentleman there, with the gray suit, (indicating the defendant Wait). I didn't see him in that currency exchange very often; my best judgment is about five times. I recall the first time I saw him there.

The front door was locked at the time, and I let him
811 in at the request of Mr. Brown. After he came in he
went over to Mr. Brown's cage. He stayed not more
than five minutes on that occasion. I didn't see anything
transpire while he was standing there—I was at the door.
I don't know what happened on these other occasions that
he came in. He went over and talked to Mr. Brown when
he came in. Mr. Brown told me Mr. Wait's name one time.

Q. Do you recall if he said anything else about him
except his name?

Mr. Thompson: We object to this as hearsay, this
conversation, as to all the other defendants.

The Court: It is admissible as against Brown. Go
ahead. It might be admissible against the others. I can't
tell. It may be received.

The Witness: I lock the door at four o'clock. When
he came to the door I was supposed to let him in.

I didn't at any other time have a conversation with
Mr. Brown respecting that man.

I saw that gentleman over there in the last row in that
Lawrence Avenue Currency Exchange (indicating the de-
fendant Hartigan). I saw him there about eight or ten
times, in the course of the time this currency exchange was
open.

I saw Mr. Sommers there (indicating the defendant
Sommers). I saw him in the currency exchange 'most
every day. He came in in the afternoon. Usually he went
out with a bag of money. Prior to the time that the
defendant Sommers came in there in the afternoon the
armored service had made deliveries to the exchange.

I saw that gentleman with the gray hair, the second at
the last row, at the currency exchange (indicating the de-
fendant Johnson). I saw him there about twice. Once
he came in to the front of Mr. Brown's cage and I seen
him once in Mr. Brown's cage. I don't know which time
I saw him in Mr. Brown's cage. When I saw him in the
cage he was talking to Mr. Brown. When I say in the
cage I mean behind the grill work on the outside.

812 There is an entrance on the front to the side of Mr.
Brown's cage to get in there. On this occasion that
I saw him behind the cage he was there about five minutes,
and on the other occasion when he was standing outside
Mr. Brown's cage he was there about five minutes.

Miss Downey brought checks into the currency exchange

in the morning. That was every morning. She brought them in a payroll envelope. She ran checks off on an adding machine when she brought them in in the morning and she entered them in a book. After that the armored service man picked them up when he brought the money.

There was an occasion when Miss Downey did not come to the office in the morning. On that morning I had other duties to perform than the ordinary ones. I went down to the Horse Shoe Restaurant, at the request of Mr. Brown. He gave me a receipt to go to the Horse Shoe Restaurant and told me to give the receipt to the girl and she would give me a little package. I went to the Horse Shoe Restaurant and gave the young lady a receipt and picked up the package and went back to the bank building. I gave the package to Mr. Brown. I didn't see him open it. I know what was in the package—it was checks.

I did observe books and records around the currency exchange while I was working there, a ledger book, a book where money orders were written in, and a big book where they entered the checks in, and there were two little black books. Those two little black books were about five inches by six inches. I have seen use being made of those two little black books. Miss Downey used to check off different numbers in that book, according to the big one and check them into the little book from the big book. She got this information she was putting into the little book from the big book. The big book I am referring to is where they had the checks typewritten in.

813 Government's Exhibit X-198 appears to be the check record that I have been describing. After Miss Downey had taken the entries out of the book and put them into the black book she took both black books home occasionally.

I am acquainted with where these records were kept at night. They were kept in the book vault on the opposite side of Mr. Brown's cage, in the back, on the other side of the building. It was not part of my duties to carry those things over at night, but I carried them in every night. I carried the ledger book, the money order book and that book that they wrote the checks in, and two little file trays in there every night.

After the currency exchange closed they put the records in the book vault. I saw the money order book again after that. After the books had been put in the book vault I did see them come out of that book vault, about ten or

fifteen days after that. Miss Downey and Mr. Brown were there when these books were taken out of the book vault. They were taken down into the book vaults in the basement. They were wrapped up in newspaper and some brown paper that was around the building before they were taken down to the vault in the basement. After they were taken down and stored in the room downstairs they were there about a week or ten days. After that Miss Downey and her sister came in to take them out. I did have a part in taking them out of the basement. I carried them out to the car. I made three trips between the basement and the car. I remember the particular packages that I carried from the basement to the car. I carried an apple box that was packed up and a cardboard box and the money order file box.

I have seen Government's Exhibit X-195 before, at the Lawrence Avenue Currency Exchange. The young ladies carried them up from the basement, and I carried it out from the first floor to the car. It was the Downey family's car.

I know what Government's Exhibit X-196 is. It is 814 the book where they wrote money orders into. I was present when the armored car brought money to the currency exchange. After the money came into the exchange Mr. Brown would count it and have it picked up. He opened the bag and dumped it on the counter, and counted the nickels and dimes and the paper money. If it was new paper money he would wrinkle it up and stack it up in a pile again. It was put in several piles. After the money was put in piles the gentlemen came in to pick it up. The gentlemen that came to pick up the money were Mr. Sommers and the gentleman by the name of Fred—I don't know who this gentleman by the name of Fred is—I don't know where he came from. I don't know Fred Gitzen. I have seen a thousand dollar bill in that currency exchange. Mr. Brown showed it to me. I had occasion to see one hundred dollar bills in the currency exchange. I saw them whenever Mr. Brown showed them to me. He didn't show them to me very often.

The safety deposit vault out there closed at four o'clock. They closed at the same time while this currency exchange was in operation. I stayed until five-thirty, until the currency exchange closed. During that hour and a half I stayed at Mr. Brown's cage. During the day I spent my

time outside the safety deposit vault. We have a desk outside the vault there and I sat there.

In my duties as janitor of the building I had occasion to empty the waste baskets and generally clean up. I took care of the furnace. I did not, in the course of the time that I was taking care of the furnace, open the furnace door and find a lot of papers in there unburned. No one else took care of the furnace except myself.

I never did observe the defendant Brown tearing up large sheets of paper or any part of these records. I did, during the time I was working there at this exchange, have occasion to see the defendant Brown and Miss 815 Downey make out receipts. I saw them make out receipts in the afternoon. Miss Downey used to take them with her. I had seen one of those receipts.

816 *Cross-Examination by Mr. Thompson.*

I commenced working for this building down there in 1935 or '36—I don't know the exact year. Mr. William Goldstein became my boss after the building was sold—I believe that was in 1937 or '38. My duties were the same after I worked under Mr. Goldstein as they were under my prior boss. Prior to that I had worked for the agent of the Receiver of the building. As janitor of this building I got in in the morning, cleaned up, mopped the lobby, swept behind the cages, and at 9:00 o'clock I would start working at the vault.

I arrived in the morning anywhere from six to eight-thirty. In the winter time I had to come down early to make a fire. The building was heated by a hand-fired furnace. I had to get down there and fire up of a morning. This was a one-story and basement, typical bank building—no other business could be conducted in the way the building was constructed, excepting bank service. The main floor room was the usual two-story high room. I don't know what size this banking room was on the first floor, but the building is 50 by 125 feet.

The banking room on the first floor occupied all of the first floor. The vaults were in the rear of the building. It was part of the 125 foot depth—about 25 feet in the rear. The bank room, exclusive of the thickness of the wall, was approximately 50 and a hundred feet deep. This bank faced Lawrence Avenue. The address was 3424 Lawrence

Avenue. It is on the North side of Lawrence Avenue. When you go inside of this building cages are on the right-hand side and cages are on the left-hand side, and they extend all the way along the wall clear back to the vault.

In the front of the building you have the usual open space where the president of the bank or cashier used to sit, about 20 feet back from the front wall of the building to where the super structure over the counters would begin. The open space in the front part of the building was about 20 feet from the front to the back. It would be about 10 feet from the wall to the railing. There was one of these on each side of the banking floor, on each side of the door. As you go into the front of this building the currency exchange was on the left-hand side. The currency exchange occupied one side. They had a lot of room to rattle around in.

Nobody occupied this open office at the front. It was not used for anything—Just a desk standing there. Mr. Brown did sit in there in a chair and visit. It was used for that purpose—social purposes at least. He didn't frequently have people coming in there and sitting down in this office and talking to him. On occasions he did, men and women, whatever customers or persons he had there, either business, social or otherwise. I never heard any of the conferences held there. There was nothing in this office space but a desk and some chairs. It was used on these occasions of conference.

Immediately behind this office was the first cage. You got into that cage from the lobby of the banking space through a swing door that was in the middle of this office space that permitted you to walk from the lobby space into this office space, and then you turned right and walked into this cage. Then you came forward to your window. This window was the typical, usual bank service window that allows you to look out of it and do the work, with just a grillwork up above, and there was just a little space underneath to do business under. The Lawrence Avenue Currency Exchange occupied this first cage immediately at the south of the office space. Mr. Brown and Miss Downey of the Lawrence Avenue Currency Exchange occupied that. There was only one cage on this side of the building. It took in about seven cages—I mean they cut all those cages up into one. All the partitions were taken out and one large cage was made. They

had seven windows. What used to be seven cages became one cage. The first two windows of the seven former windows were used as the service windows for the currency exchange.

When they were both working Mr. Brown was at the first window and Miss Downey was at the second. If she was there alone then she moved up to Mr. Brown's window—I observed that. At times I was at Mr. Brown's cage and at times I was back by the file. The only times I was at the currency exchange cage was when they had those large amounts of money coming in and they were getting ready to put it in the vault or something, or after our vaults closed then I went up to serve the currency exchange in guarding the money while they were making this transfer of funds.

The vault was open from nine to four, continuously, with no closing during the noon hour.

Only two people were employed by this vault company. Mr. Goldstein is president of the vault company. I don't know who the secretary is. The vault company operates the set of vaults in the rear of the building. You entered the vault space through a grilled door. This partition that separates the bank lobby space from the vault space is an open grill partition all the way across, of stainless steel bars. The door enters into this space in the middle of the building. The door is about eight feet. We both open the steel door that goes into the vault space in the morning. By that I mean I am on the inside when Miss Koop comes in and I open the door. There is no lock on it—just a little snap that runs into a little slot. We do not lock that iron grate door. I opened the vault door before Miss Koop came down. It had a combination. It was six or seven feet between the steel partition which separated the lobby S19 from the vault space to the vault door itself. This six or seven foot space is about twelve or fifteen feet long, because the cages run on both sides. The cages run clear back to the vault. Miss Koop's desk was in this space of seven feet wide. She was in there back of this first grill work and in front of the vault door. We have a counter on one side of that grill and she has her desk right next to the vault, up against the frame of the vault, close to the door.

We have little rooms where the people go in there to examine the contents of their boxes. Her desk faces those little rooms, so that she is facing the side of the building and the front of the building is at her left.

I had two chairs in that space, one at the counter and one at the desk at times. I sat back in this space there with Miss Koop and when a customer would come in to use the vault either I or Miss Koop came back to open the vault for them. I took them back into the vault space and then opened the individual box that the customer had. There were times that both Miss Koop and I were back in this vault space together. There were thirty-five or forty customers came in there a day to use these vault boxes. There were more than that often. The average amount of customers was between forty and fifty. We had between 1700 and 2000 box renters when we had this currency exchange and 40 or 50 would come in and out each day on an average, and I and Miss Koop served these people without other assistants. I was back in the vault serving the people about a third of my time. The rest of the time I was outside as a guard. I wore a uniform, with a badge. I was dressed like a policeman.

I served in the triple capacity of janitor, guard and assistant custodian of the vaults. I knew what Miss Downey and Mr. Brown were doing all the time. I knew what Miss Downey was writing with her typewriter all the time. I saw all the list of checks she made and all the entries 820 she made in her books and that sort of thing. I saw all the change Mr. Brown made and bills he counted, and all that sort of thing, and I was back in the cage at the currency exchange. That would be any time of the day. I spent about a third of my time back of the cages in the currency exchange while it was operating there. I was standing around and sitting down. I could see everybody that came in and if Miss Koop got too busy I went back to the vault.

The occasion of my spending a third of my time back inside this currency exchange was on account of Mr. Brown's money. As long as I was police officer it was part of my duties, not to count the money, but keep my eyes open. I didn't count Mr. Brown's money. I didn't say I did. I just sat around back of this cage. They had a chair back there for me to sit in.

Q. Were you invited back in the currency exchange?

A. Nobody ever chased me out.

Miss Downey was not busy all of the time keeping her books and running her typewriter. I saw everything she wrote in the books. I could not see what was going on be-

hind the cages when I was sitting in the space back by the vault. I could see all that was going on in front of them.

It was in the afternoon when I saw Mr. Johnson come in and go behind the cage of the currency exchange, anywhere in between three and four o'clock—I don't remember the day—I don't remember the month. It was in '38.

During the time Mr. Brown was running his currency exchange there was one of the days I saw Mr. Johnson come in and go behind the cage. He stayed about five minutes—he didn't sit down—he stood up. He didn't to anything while he was there—just talked to Mr. Brown. Miss Downey was there. I was sitting at the counter at the vault,

between the space that is in this space between this 821 grating and the front of the vault, in my usual and customary guard space. Nobody else was in there at that time. I didn't know Mr. Johnson at that time. I know him as Mr. Johnson—I saw him in the paper months back from now. I never saw Mr. Johnson's picture in the paper until he was indicted. That was just a few months ago, along in 1940, that I saw Mr. Johnson's picture in the paper. I saw him in this vault out there in this cage in 1938, two years before. As soon as I saw this picture in the paper in 1940 I said "There is the fellow I saw in the currency exchange back in 1938," right off the bat.

HIBBERT A. DENNING, being duly sworn, was examined and testified as follows:

Direct Examination by Mr. Hurley.

I live in Burlington, Wisconsin. I am employed by the Northern Trust Company approximately twelve years. I am now a special paying teller and have been for the past six and a half years, for the Northern Trust Company,—since about 1934. My duties as a special paying teller are to see that there is a sufficient supply of money on hand to meet all legitimate demands that customers may make upon us. The other tellers are allowed a maximum of currency and in order to obtain that maximum if they are short they buy from me and if they exceed their maximum they turn that excess over to me. Any transactions at their window that they are unable to handle themselves, they may refer them to me.

All requests from country banks for currency are filled by me.

The deposits and the cashing of the checks of the brokers and bond houses, and all the checks coming through the 822 clearings each day for \$10,000 or over, the signatures on there must be approved by me before final payment is made. I think that covers it.

I have known the defendant Jack Sommers for approximately five years. I met him in the course of my duties at the Northern Trust Company. I would transact banking business with defendant Sommers for approximately three times a month for six months out of the year. That would be over the period '36, '37 and '38, and part of '39, I believe, not more, I don't think, than the first two or three months, four months possibly, of 1939. He brought me old currency and exchanged it for new. He would bring it in wrapped in paper, in one package, and then on opening it would be strapped in packages of \$500.00. The denominations of those bills were tens and 5s, possibly a sprinkling of twenties, not many—they were old bills. There would be an average of about ten \$500.00 bundles to a bundle. Mr. Sommers would take mostly new fives and possibly a package of twenties. There would be three thousand in fives, two thousand in twenties, and if he didn't take twenties he might take a few hundred dollar bills. It averaged mostly three thousand fives and averaged two thousand hundreds if he didn't take twenties. About one-third of the time over the period that I have testified to there would be an exchange of hundred dollar bills and two-thirds of the times twenties. That is over the period of '36, '37 and '38, and two or three months in '39. There is not any charge made for a transaction of this that I know of—at least I didn't make any.

Q. Now, what amount in dollars would that business that you have described of Sommers with the Northern Trust Company, what would that amount to in the year 1936?

Mr. Thompson: We object to that, the amount of these exchanges of currency, as far back as 1936, especially.

The Court: Your best recollection, if you have one.
823 The Witness: Approximately one hundred thousand dollars and approximately one hundred thousand for the year 1937 and one hundred thousand for 1938. These transactions amounted to, in dollars for three or four

months that I have described in the year 1939 for Sommers, in the bank, amounted to approximately forty thousand dollars.

There was no permanent record kept by me of these transactions that I have described in exchange of that currency. The money was in the form I have described, as handed to me, and I delivered to Sommers the quantities I have described. I do not recall that in the currency that Sommers brought in that he ever brought in any new hundred dollar bills.

Mr. Thompson: It appearing there is no evidence connecting the defendant Johnson at all with these transactions, we move to strike it on the ground it is immaterial, does not tend in any way to show the taxable income of the defendant Johnson, or even the taxable income of anybody.

The Court: Denied.

Cross-Examination by Mr. Thompson.

These amounts that I was mentioning are approximations of the aggregate of the transactions. Mr. Sommers would come in with five thousand dollars of worth of currency and he would exchange that currency for an equal amount of new currency, with the exception of hundred dollar bills. If he got any hundreds it was immaterial if they were new or old. He would usually take out three thousand in fives when he came in with the five thousand dollars. The other two thousand he would sometimes take out in just new twenties. On the occasion when he didn't take it out in twenties then I remember that he took it out in hundreds. About two-thirds of the time he would take out that other two thousand in twenties and about one-third of the time he would take it out in hundreds. He came in approximately about three times a month about six months of the year. That would be about eighteen visits a year on the average. That is my recollection for 1936 and my recollection is approximately the same in 1937. I didn't fix it by any memorandum that I have—or any thing—I just think back over the period and it seems to me it was about three times a month about six months a year. That would be about ninety thousand dollars. I don't know whether it was the \$5,000 bank roll handled eighteen times, or whether it was eighteen five thousand dollar bank rolls—I don't know anything about that. Mr.

Sommers didn't explain to me why he was making these changes. The fives and twenties that Mr. Sommers received from me would be new money.

I have never shot any craps. I don't know how they deal money on the table.

ARTHUR GEORGE BAIER, called as a witness in behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Miller.

My name is Arthur George Baier. I am paying and receiving teller at the North Shore National Bank about four years. My duties as paying and receiving teller of the North Shore Bank is to take in deposits and pay out currency.

I know the defendant, Stuart Solomon Brown, whom I see in the courtroom (indicating the defendant Brown). I have known him just as a customer of the bank—July 21, 1938, until August 16, 1938. During that period I saw him about every day.

I took in deposits and also gave cash back, on checks, in my transactions for the bank with defendant Brown. That would happen every day. I gave him currency every day, in bills, mostly in one hundred dollar denominations. It would be very hard to say what would be the amount of 825 currency I gave him every day in these denominations—it ran in different amounts.

During the entire period from July 20, 1938, to August 16, I gave him approximately \$85,000 in currency. Most of it was in hundred dollar bills. Mr. Brown gave me a check in exchange for the currency I have delivered to him, drawn on his own account, the Lawrence Avenue Currency Exchange.

Cross-Examination by Mr. Thompson.

I handled these transactions with Mr. Brown just as a customer of the bank. I took in deposits myself and paid cash out. On these deposits there were checks that he deposited. Then he gave me a check and I gave him cash back, whatever he wanted. Each transaction was a deposit, and then a draft on the balance of that deposit. It was not

exactly the amount of that deposit. He did not draw out the amount he put in each time. That varied. His checks were different amounts. As far as I recall he wouldn't take out the money represented by the block of checks he would bring in. He made deposits and took out cash—I don't recall whether the same amount or not.

I recall the size of the bills, but I can't say how much he took out each time. He took out mostly one hundred dollar bills. He very seldom took any change for this currency exchange down there. He would take quarters, nickels, dimes—that is all I can recall. It may be that he took some halves—I don't recall very well. I don't recall that he took any pennies. I never was down at this currency exchange. I don't know anything about the kind of business he operated down there. We had one or two other currency exchange accounts around that time. The name of one is Rogers Park Currency Exchange, located on North Clark Street. I didn't handle that account. I never cashed any of their checks. They had the money picked up mostly by Brinks Express. The Rogers Park Currency Exchange would come in in the morning and order what they want from the discount teller and note teller. I don't know anything about that transaction of taking out different varieties of currency and cash.

We had the Harold E. Vetter & Company Currency Exchange, located on Broadway—I don't know what address—I very seldom handled that account. They took out currency, cash, in various denominations, but theirs was mostly fives and tens and singles, single dollar bills. They took out different denominations of silver, which they needed.

I have no memorandum of the transactions with Mr. Brown. I am trusting entirely to my recollection. The first day I had a transaction with Mr. Brown was in July sometime—I can't recall right now. I took in his deposit and gave him cash back. I don't recall the amount of the deposit. I don't recall the amount of the cash I gave him back. I don't recall how many one hundred dollar bills I gave him that day—I don't recall how many tens.

Q. Do you recall any day that you had a transaction with Mr. Brown that you can tell us something about?

A. Well, just as a customer of the bank, he would come in to make a deposit and ask for me—

Q. Name one day that you remember.

(No answer.)

Q. Do you remember any day, the amount of his deposit?

A. No, I don't.

Q. Do you remember any day that you gave him as many as ten \$100 bills?

(No answer.)

Q. Do you, Mr. Baier?

A. I don't recall, off-hand.

827 Mr. Thompson: We move to strike the testimony of this witness, your Honor, as altogether immaterial; tending in no way to prove the taxable income of the defendant Johnson, or any of the other issues in this case.

The Court: Motion denied.

828 GUS L. NELSON, being duly sworn, testified as follows:

Direct Examination by Mr. Miller.

I have been vice-president of the Central National Bank of Chicago since December, 1936. I am in charge of the special service department that handles our currency exchange division, primarily; collections, transfers.

I have known the defendant Stuart Solomon Brown since the Lawrence Avenue Currency Exchange account was opened with us, in 1938.

Government's Exhibit X-178, for identification, consisting of ten sheets bound together, are our customer ledger sheets, on the Lawrence Avenue Currency Exchange, and reflect the deposits made, checks paid, and other debits charged to the account.

The period of time covered by those ledger sheets is July 14, 1938 to September 25,—no; November 17, 1939. These ledger sheets reflect the deposits made, checks paid, and other debits charged to the account. Those sheets are a part of the permanent records of our bank, kept under my supervision and control in the usual and ordinary course of our business. It is customary in our business to keep such records.

Government's Exhibit X-179, for identification, are analysis cards which reflect the activity of the account month by month. It reflects the average balance, the float, the number of checks drawn, number of deposits made, number of checks deposited, both local and out of town, and the

amount of currency withdrawn, and the number of money orders paid. That is part of the permanent records of our bank, kept under my supervision and control.

829 Mr. Thompson: We admit the rest of the qualifying questions.

Mr. Miller: The admission of counsel has reference to Government's Exhibit No. X-179.

The Witness: Government's Exhibit, X-180, for identification, consisting of two batches of tickets are deposit slips that accompanied the deposits from time to time. They cover the account of the Lawrence Avenue Currency Exchange and are part of the permanent records of our bank, kept in the usual and ordinary course of our business.

Mr. Thompson: We admit the rest of the qualifying questions.

Mr. Miller: The admission of counsel for the defense has reference to Government's Exhibit X-180 for identification.

At this time, I will offer Government's Exhibits X-178 and X-179.

Cross-Examination by Mr. Thompson.

The first transaction appears to be July 14, 1938. That was the opening of the account. One thousand dollars was the amount deposited when this account was opened. The deposit slip would reveal whether that was a currency deposit or check deposit.

The next transaction was on August 15, 1938, a deposit of \$8,623.79, and a debit of ten cents. I can't tell without referring to the deposit slip whether that deposit totaled checks. I don't know what the debit 10¢ is for. It is possible it was exchange on an out of town check, something like that.

One month and one day intervened between the opening of the account and the first transaction in the account. I didn't handle those transactions personally. Some tellers and other employees under me handled the transactions. I know nothing about the relations between the exchange and my bank except what my records show.

830 Mr. Thompson: We object to the documents, Government's Exhibit X-178, which seems to consist of ten sheets of paper, with figures on both sides of the ten sheets, on the ground that it is altogether immaterial; tends in no way to prove the taxable income of the defendant Johnson;

has no probative value as to any of the other defendants and the defendant Johnson as alleged in the indictment; it is hearsay as to each and every defendant in this case, except, possibly, the defendant Brown, and as to the defendant Brown, it is immaterial to any issue in this case.

The Court: The objection may be overruled, and the exhibit may be received.

(Whereupon said document, marked GOVERNMENT'S EXHIBIT NO. X-178 was received in evidence.)

Mr. Thompson: As to the other exhibit, which is Government's Exhibit X-179, consisting of two sheets with figures and words and symbols on both sides, this is immaterial to any issue in this case; certainly it tends in no way to prove the taxable income of the defendant Johnson, or any other issues presented by the indictment, and it seems to me to be hearsay as to every defendant, certainly as to all except Brown.

It appears, your Honor, to be an analysis sheet of some kind. We have had no connection with it and have no source of information concerning it.

The Court: Does this show that you conducted this business as a loss?

A. The total amount is the amount charged to the account as service, and showed an analysis loss, and that loss is charged to the account.

The Court: Objection overruled. It may be received.

(Whereupon said document, marked GOVERNMENT'S EXHIBIT X-179, was received in evidence.)

831 The Witness: The defendant Brown didn't see the document, Government's Exhibit, X-179; however, monthly copies of that were mailed to him, containing the same information on a different form. That is our permanent record. Monthly copies of analysis were mailed to the currency exchange. It is possible that no copy was made out for the month of July, 1938, inasmuch as the account was inactive. The information contained on this card for the month of August was mailed the early part of September to the Lawrence Avenue Currency Exchange. It would be the regular printed form containing all the information that appears on this card. It shows the amount of the cost to our bank of handling the account, which was charged to the account. This is what amounts to the statement for services for handling this account for the Lawrence Avenue Currency Exchange.

At the time the account was opened we discussed our

per item cost and this account corresponds to what was agreed upon for the per item cost for the service to be rendered. What this finally adds up to is what the Lawrence Avenue Currency Exchange paid us for services during the period they were served by us.

Mr. Thompson: We renew our objection, your Honor.

The Court: Overruled.

PATRICK FLANAGAN, being duly sworn, testified as follows:

Direct Examination by Mr. Hurley.

I live at 1815 Touhy Avenue. I am a special payer at the Central National Bank. My duties as special payer are the shipping of currency and silver to currency exchanges 832 and supplying the tellers in our own bank with currency and silver.

I have known the defendant Brown since July, 1938. I met him in the course of my duties in the Central National Bank. He would call in his order for currency and silver. The order would be completed, sealed, and the armored car men would pick it up and deliver it. I would prepare that order. That was part of my duties. Brown would call me at night for delivery of currency the day after. Sometimes I would talk with Mr. Brown and sometimes a lady, about those arrangements—I don't know who the lady was.

Brown called me practically every day and placed orders for currency for the period from July, '38 to the time the account closed. That would be sometime in the fall of '39.

A large portion of the orders Brown placed for currency would be large bills.

Q. How much of a total amount of currency would he order when he called you up with reference to placing—

A. One to ten thousand.

Mr. Thompson: We object to all this, your Honor, as hearsay, as to all other defendants, and as immaterial.

The Court: Overruled.

The Witness: The average amount that he would order during this period was from three to five thousand a day. A very large portion of the currency he ordered would be hundred dollar bills, fifty dollar bills, some twenties, fives, and singles. On an average of from three to five

thousand dollars a day of the portion that he ordered was in hundred dollar bills.

I would order the currency sent out on order from the Federal Reserve Bank, Chicago. Mr. Brown would usually call me the day before, and if he needed an excessive amount of large bills we would have to order those from the Federal Reserve, in excess of our usual order. I

would have to order those large bills, because we
833 were not in the habit of using so many large bills during the day. We generally took enough to suffice our needs.

Mr. Thompson: I move to strike the testimony as immaterial, being in no way connected with the defendant Johnson, and tending in no way to prove the taxable income of the defendant Johnson, and hearsay as to the other defendants, except possibly the defendant Brown.

The Court: Motion denied.

Mr. Miller: I would like at this time to read Government's Exhibit X-179 to the jury, if your Honor please.

The Court: What is that?

Mr. Miller: It is an account analysis record of the Lawrence Avenue Currency Exchange account.

The Court: All right.

Mr. Miller: Account analysis record of the Lawrence Avenue Currency Exchange. I am reading from Government's Exhibit X-179, the Lawrence Avenue Currency Exchange, 3424 West Lawrence Avenue.

In the left, first column on the left in—

The Court: Pardon me. That is going to be wholly unintelligible to the jury.

Mr. Thompson: Certainly it is.

The Court: I am going to make this ruling. This is received in evidence, and reading thereof is waived, unless I hear an objection at the moment. I hear no objection. The reading is waived. Either counsel may have

leave to refer to the document and to read such por-
834 tions of it as he may wish.

Mr. Hurley: If the Court please, we have here certain exhibits that were identified but have not been received in evidence. I wish now to offer those exhibits. They are E-54, E-62, E-61, E-59, E-57, E-58 and E-60. These are the reports of the auditing firm of Horwath & Horwath, which were identified by Mr. Shaw, and were not offered at that time, and I now wish to offer them, the reports of the Bon-Air Catering Company, the originals

of which were sent to the company at the time the audit was made.

Mr. Thompson: If the Court please, I assume they are a duplication of the books that are in evidence. These seem to be an auditing of the accounts as they are described. The proof, as I recall it, is that they were mailed to Mr. Waite, the president of the corporation.

We object to the documents on the ground there is no showing that any of the other defendants ever saw these documents. There is certainly no showing that any defendant who was not in some way connected with this corporation ever saw the documents.

It is hearsay as to all of the defendants, except possibly the defendant Wait, to whom the documents were addressed. It is altogether immaterial to any issue in this case. These documents do not prove or tend to prove

the taxable income of the defendant Johnson. The s35 defendant Johnson is not bound by the books of the

Bon Air Catering Company, much less by the auditor's audit of those books, unless it is proven that the defendant Johnson had his attention called to the accounts and the books and had knowledge of them. They are all immaterial and hearsay. No proper foundation has been laid for them.

Mr. Hurley: The evidence, as your Honor will recall, is that the defendant Johnson himself ordered certain entries made on these books. That is how they are competent, among other reasons.

The Court: The objections will be overruled. The exhibits may be received and the reading thereof may be waived at this time. Counsel may have the opportunity of referring to or reading all or any part of them in the argument.

(Said exhibits, so offered and received in evidence, were thereupon marked **GOVERNMENT'S EXHIBITS E-54, E-57, E-58, E-59, E-60, E-61 and E-62.**)

(Whereupon the following proceedings were had in the courtroom, outside the presence and the hearing of the Jury, to-wit:)

The Court: Now, before you start, I am going to adhere to the ruling which I indicated the other day respecting Exhibit O-211. Mr. Brown was interrogated before the Grand Jury on, as I recall, several different days. I am going to let you put in the first day's testimony. That covers these pages number from 381 to 429, and those

pages numbered 504 to 604. I am going to sustain the objection of counsel for the defendant to the remaining pages, which are numbered 817 to 862, 1523 to 1577, and 1933 to 1986, a total of 152 pages. Now, the reasons for my sustaining that objection I indicated to you yesterday. The pages which I have admitted cover 148 pages. I am sustaining objection to 153. Now, then, counsel for the defendant can start on that basis if he has something 836 to say.

(Said exhibit, so offered and received in evidence, was thereupon marked GOVERNMENT'S EXHIBIT O-211.)

(The following proceedings were thereupon had in the presence and hearing of the jury:)

Mr. Hurley: At this time, if the Court please I desire to read from Government's Exhibit O-211, being the Grand Jury testimony of Stuart Solomon Brown.

Mr. Thompson: If the Court please, we object to the reading of this testimony on the ground that it is incompetent; it is hearsay as to all of the rest of the defendants; it is a mere recital of a past offense, not in any conversation or act of the defendant which can be in any way binding on the other defendants.

The Court: It is Grand Jury testimony?

Mr. Hurley: That is right, your Honor.

The Court: I have admitted it only as against defendant Stuart Solomon Brown, and not against any of the other defendants.

Thereupon Mr. Hurley read to the jury the Government's Exhibit O-211, being that portion of the testimony of Stuart Solomon Brown before the Grand Jury that was admitted in evidence as follows:

837 Mr. Hurley: (Reading:)

"STUART SOLOMON BROWN called as a witness by the Grand Jury, having been first duly sworn by the Foreman to testify the truth, the whole truth and nothing but the truth was examined and testified as follows:

Examination by Mr. Campbell.

Q. Will you state your name?

A. Stuart Solomon Brown.

Q. And you sometimes sign your name as S. Brown, do you not?

A. Most of the time.

Q. Where were you born?

A. Buffalo, New York.

Q. How long ago?

A. Almost forty-nine years ago, forty-eight years ago.

Q. At this point in your testimony, although under no legal obligations so to do, I nevertheless am going to advise you that it is your privilege, as each question 838 is put to you, to claim your Constitutional right against self-incrimination. That, however, is a privilege to be claimed by you as each question is put, do you understand that?

A. Yes, sir.

Q. Where do you live, Mr. Brown?

A. My residence is 4200 Hazel avenue.

Q. Hazel avenue?

A. Yes, sir.

Q. Chicago, Illinois?

A. That is right.

Q. Do you live in an apartment?

A. Yes.

Q. How many rooms?

A. Three.

Q. Are you married or single?

A. Married.

Q. Do you have any children?

A. Not of my own.

Q. You live at 4200 Hazel avenue?

A. That is right.

Q. Do you know who lives at 4224 Hazel avenue?

A. No, sir.

Q. If anyone?

839 A. No, sir, I do not.

Q. Over the last ten years, beginning January 1, 1930, please detail exactly what you have done.

A. In 1930 I was with the Ogden National Bank. I was cashier. The bank was located at the corner of Ogden and Crawford avenue.

Q. And how long did you continue in that position?

A. I was with the Ogden National Bank from 1927 to 1931.

Q. And what happened, if anything?

A. I was out of work for two years.

Q. That takes you up to 1933?

A. That is right.

Q. Then what?

A. Then I secured a position with the Federal Deposit Insurance Corporation as Assistant Examiner.

Q. How long did you continue in that position?

A. Until May or June, 1937.

Q. Beginning in May or June, 1937, what did you next do?

A. I was out of work from 1937 to 1938.

Q. What time in 1938?

840 A. I should say until I went into this Currency Exchange business about July, July 20th.

Q. July 20th, 1938, you went into the Currency Exchange business?

A. That is right.

Q. How far was that currency exchange business located from the Ogden National Bank, where you formerly worked?

A. Oh, I would say about six or seven miles.

Q. About six or seven miles?

A. Yes, sir.

Q. Do you know a man by the name of James A. Hartigan?

A. Yes, sir.

Q. How long have you known him?

A. About twelve years.

Q. Twelve years?

A. Yes, let us see, twelve years, that is right.

Q. Where did you first meet James A. Hartigan?

A. At the Ogden National Bank.

Q. What were the circumstances under which you met him?

A. His usual coming in there, seeing him going
841 into the teller's cage and transacting whatever business he did at that time.

Q. And this continued over a period of years, did it?

A. Up until 1931.

Q. You saw James A. Hartigan frequently at your bank during that period?

A. I would not say very frequently, but he was there maybe once or twice during the day, or maybe once a day, something like that. I do not just remember.

Q. At any rate, it was during that period of time that you became acquainted with Mr. Hartigan?

A. That is right.

Q. Do you know Jack Sommers?

A. Yes, sir.

Q. How long have you known Jack Sommers?

A. I have known him only since I was in business in the Currency Exchange.

Q. That would be July, 1938?

A. That is right.

Q. And A. J. Creighton, sometimes called Andrew Creighton, do you know him?

A. Yes, sir.

842 Q. How long have you known him?

A. About the same time.

Q. Did you know him prior to the opening of the currency exchange?

A. Never, I never knew either one of them, sir.

Q. And Orrie Alexander, do you know him?

A. Who?

Q. Orrie Alexander?

A. No, I don't know him.

Q. George Turner?

A. I don't know him, either.

Q. Anton Moody?

A. I would not know them unless they came in there and brought checks in there. I would not remember their names. I do not know them personally, if I seen them on the street I would not know them, to tell you the truth.

Q. That is an answer to the question, very well.

A. Thank you.

Q. Do you know John M. Flanagan?

A. I don't know him, I have heard of him, but I don't know him.

Q. Tell us what you have heard about him.

A. Weil, I have heard that he was—had some gambling connections on the West Side.

843 Q. Go ahead.

A. That is all.

Q. What kind of connections?

A. I don't know.

Q. Who told you that he had connections on the West Side?

A. Mr. Hartigan.

Q. What did he say?

A. I used to get checks, I did not get checks from him, I have tried to get checks from him.

Q. I did not hear the last answer.

A. I said I tried to get checks from him, but they did not have any for us.

Q. What connection was there between Mr. Flanagan and Mr. Hartigan?

A. I could not say, I just guess they knew each other.

Q. How did Hartigan come into the situation so far as Flanagan was concerned?

A. Flanagan never came into my place, I do not remember seeing him once in my place.

Q. But you heard about John Flanagan?

A. Yes.

Q. Through Jimmie Hartigan?

844 A. That is right.

Q. What did Hartigan say about Flanagan?

A. Nothing, he never spoke about him.

Q. He must have said something, you say you heard something about Flanagan from him.

A. I knew that he was handling checks there and I was getting checks from Sommers and Creighton, and I thought that I could get some from him, but I did not get any from him.

Q. Why did you select Flanagan as a source for getting checks?

A. Probably because Hartigan mentioned his name to me and I asked him for some checks.

Q. Flanagan was running a gambling house the same as Hartigan?

A. I suppose he was.

Q. And that is why you solicited their business?

A. I did not solicit their business.

Q. You knew they had checks to be cashed and you solicited checks from them?

A. But I did not get any from them.

Q. But whether you did or not, you knew what Flanagan's business was?

A. I said I just heard about it.

Q. And you heard it from a reliable source?

845 A. I heard it from Hartigan.

Q. And that was a reliable source so far as you were concerned, wasn't it?

A. Yes, sir.

Q. E. H. Wait, commonly known as Ed Wait, do you know him?

A. I do not know him, sir.

Q. Do you know a man by the name of William R. Johnson?

A. Yes.

Q. Commonly known as Bill Johnson?

A. Yes.

Q. How long have you known him?

A. Twelve years.

Q. Twelve years?

A. Yes.

Q. What were the circumstances under which you first met him?

A. Coming into the bank there.

Q. Where?

A. At the Ogden National Bank at Crawford and Ogden.

Q. Was he a customer of the bank?

A. At that time I think he had a small account.

846 Q. And you became acquainted with him?

A. Only in that manner.

Q. And in that fashion you became acquainted with Johnson?

A. Yes, I knew he had a gambling place and I think he was interested in the dog track out there.

Q. What gambling place did you know that he had?

A. The one on Ogden avenue.

Q. What was the address?

A. I do not know the address, sir.

Q. Was it 4020 Ogden avenue?

A. Something like that.

847 Q. And you knew that he had a dog track at one time?

A. Yes.

Q. Did you?

A. Yes.

Q. Where was that dog track located?

A. 26th and Cicero.

Q. What was the name of it?

A. I don't know the name of it, I don't know what the name of it was at that time.

Q. What was the name of that Kennel Club?

A. I could not tell you.

Q. Was he the only one you got acquainted with in connection with the dog track enterprise?

A. That is all, and I only knew him casually.

Q. I beg your pardon?

A. That is all, and I only knew him casually.

Q. You attended the dog track?

A. Never, never in my life. I never attended any gambling place in my life.

Q. You merely serviced them?

A. Just like anybody else would in the banking business.

Q. While you were cashier of the Ogden National Bank, you learned that Mr. Johnson operated a dog track?

A. That is right.

Q. Mr. William R. Skidmore, do you know him?

A. I never saw him in my life.

Q. Did you ever have any business transactions with him?

A. Never.

Q. Ever have any business transactions with anyone connected with Mr. Skidmore?

A. Not that I know of.

Q. Not that you know of?

A. No.

Q. Now, at this point go ahead and tell the Grand Jury in your own words about the Currency Exchange.

A. What do you mean?

Q. To which you referred.

A. How I got the idea about it and so on, is that what you mean? How I got into it?

Q. That is a comprehensive question, and you can say just as much or as little as you care to. I am allowing you to be your own pilot, for a minute.

A. I was out of work for over a year, I don't know whether it was in May or June, 1938, I was coming ing downtown and I was on State Street, I don't know just exactly where, and I met Jimmie Hartigan. I have known him, but I had not seen Jim for years, and he asked me what I was doing and I told him I was not working, just a mere conversation, but I said I had an idea of something I could do, but I did not have enough money to go into it, to go into that business. Well, he listened to my conversation and he said, "Well, I have got to go somewhere, suppose you meet me some time or come out and see me." I said, "Where can I see you?" He said, "Come on out to the Harlem Stables." I said, "All right; when can I come out?" He said, "Come out tomorrow or the next day."

Well, I went out there and I propositioned him, I was met at the door, he met me in the ante-room, there is a sort of a little room off the entrance, and he said, well, and I told him of my thinging of going into the currency exchange business because I could not get a job. Everywhere, every place I went, being over thirty-five years of age, they don't want you, even the United States Government, I can prove that, too. So, what was I going to do,

I had to go in some business, after all I was married, 850 so he said come back again. I said, "When can I come back?" And he said, "In another week or so."

I came out there again and asked for him and saw him and he seemed to be interested. I said, "Now, you won't lose your money, you can trust me." He invested a couple of thousand dollars in the business.

I lived in Albany Park for about twelve years and I told him about a spot out there, I told him the Albany Park Bank Building was empty and there was a good chance for my renting that place reasonable. He said—I told him the fixtures were in there, and that it would not cost me much to start out. He said it might go good. He said "Go into it and see what you want to do and if I can help you, all right, I will."

Q. Go right ahead.

A. Well, then we started into the business. That is all.

Q. Go ahead and tell us about the business.

A. What do you want me to tell you?

Q. All about it.

A. I entered into the currency exchange business 851 and opened up an account.

Q. Go ahead.

A. He did say "I can get you some business," and I said "all right, if you can throw that business my way," which I knew he could, it would be a great help to me to get started in that location. Knowing all of the people in that neighborhood in addition to that business, I tried to make a go out of it, but it was not possible, the moment that business was cut off I was cut off.

Q. What particular business are you referring to that was cut off?

A. The business that Mr. Hartigan sent in to me.

Q. What was it?

A. The checks from Summers, Craighton and Kelly.

Q. You are a banker, aren't you?

A. Yes, sir.

Q. And as a banker you generally know the type of business in which at least your important clients or customers are engaged, don't you?

A. I didn't get what you mean, sir.

Q. Read the question.

(Question read.)

A. Well, that is misleading.

852 Q. In what respect?

A. Well, I would not know what business they are engaged in other than cashing the checks. Anyone can come in and cash checks, individuals or anyone at all.

Q. Now, I want you to tell me more about that business, which Mr. Hartigan sent to you. I want you to state the type of that business, and I want you to talk without my crowding you with questions, go ahead.

A. He introduced me to this Mr. Creighton, Mr. Sommers and Mr. Kelly, and told them to bring their checks to me.

Q. And did they bring you their checks?

A. Yes, sir.

Q. Personally?

A. Personally, or sent them in by someone.

Q. Now, I ask you specifically in what type of business was Mr. Creighton, Mr. Sommers and Mr. Kelly engaged?

A. I imagine they were in the gambling house business.

Q. You imagine it?

A. I suppose they were, I never was out there, 853 and I never saw their business.

Q. I am going to ask you, did you know, or didn't you know in what business those gentlemen were engaged?

A. They were gamblers.

Q. Now, how long did this—strike that—just when did this particular currency exchange open for business?

A. July 20th, 1938.

Q. What was the name of it?

A. The Lawrence Avenue Currency Exchange.

Q. And besides yourself who was interested in that business?

A. Mr. Hartigan.

Q. Financially?

A. Yes, sir.

Q. Did you have a partner in that Exchange?

A. Well, he made a provision—

Q. I am asking you, did you have a partner in that Exchange. Please answer yes or no.

A. Yes, Mr. Downey.

Q. He was your partner?

A. Right.

Q. Now, go ahead and make the explanation you 854 started to a moment ago.

A. Mr. Hartigan invested that money, and he said on one condition, that I bring in his niece and let her work for me. He said everything we did, why I should put her into it, and I made her a partner on my books, which she was not, not in equal proportion, because my experience and her not knowing anything about that business. She never had any experience of that kind, never worked in a bank, in her life, or did anything clerical and I had to teach her everything, so she did just the clerical work, that is all she did. She looked after his interest.

Q. She looked after his interest?

A. That is right.

Q. Did she own an interest in the Exchange or was she looking after Mr. Hartigan's interest as agent?

A. It was his money and she looked after it for him.

Q. It was his money and she looked after it for him?

A. Yes, it was his money and he put her in there, in other words, I made her a partner to look after his 855 interest.

Q. Back of the scene you considered that you and Hartigan were partners rather than you and Miss Downey?

A. Yes, in other words he trusted me with the money, he did not give it to her.

Q. Did you put in any capital?

A. Yes.

Q. How much?

A. A little over two thousand dollars.

Q. Where did you get that money?

A. That was my own money.

Q. Where did you get that money?

A. I earned it.

Q. How?

A. Do you think after working about thirty-five years that you ought not to have a couple of thousand dollars?

Q. I am just asking you, I don't want to quarrel with you.

A. You asked me that question and I am telling you.

Q. Yes.

A. I think that is a personal question, anyway.

856 Q. This is a very personal matter down here, now let us not get trying to lecture each other, because after all we will get along better if we do not start that?

A. Yes; all right.

Q. How long did the currency exchange continue business?

A. About a year and a half.

Q. When did they close?

A. September, 1939, September 30th.

Q. Kindly state the circumstances leading up to the closing of the currency exchange, please.

A. Business was very slow, I could not see my way clear, if the other checks had not been coming in I could not have continued my business, so it was advisable that I advise Mr. Hartigan that there was no use of my continuing, because I would lose my capital and his capital.

Q. In other words, Hartigan's business ceased?

A. Well, it was getting thinner all of the time.

Q. And that produced the closing of the currency exchange?

A. That is right. I advised him there is no use of continuing, because I would only lose my money and lose his too.

857 Q. Was the gambling business thinning out or closing up, or what was it?

A. The gambling business was thinning out, I guess.

Q. They were not closing?

A. I do not know.

Q. Mr. Hartigan talked to you about this, didn't he, you were partners in business?

A. Hartigan didn't see me but very, very seldom.

Q. That does not make any difference if you were partners in the currency exchange, and you are discussing the closing of the business because you are not getting any business from him.

A. That is right.

Q. Now, go ahead and tell us all about that.

A. I told you.

Q. Did he say that the gambling houses were closing?

A. He did not mention that to me.

Q. Did he say he could not send you any more checks?

A. Business was getting thinner and he said they might close and if they did close I would not have any business.

Q. He said that they might close—I beg your pardon?

858 A. That is right.

Q. He told you that?

A. Yes, sir.

Q. Did you wait to see if they did close?

A. No, I had no connection with that.

Q. After Mr. Skidmore was indicted you decided to close up?

A. I don't know Mr. Skidmore. I don't know anything about that.

Q. Well, you read the newspapers?

A. Once in a while.

Q. You know the Grand Jury indicted him the last of August or the first of September?

A. I don't know much about that.

Q. And that caused the currency exchange to close along with the gambling houses, didn't it?

A. No, sir.

Q. I beg your pardon?

A. No, sir, it had nothing to do with it.

Q. It had nothing to do with it whatever?

A. Absolutely had nothing to do with it, I never knew him in any way, shape or form, and I swear to that.

Q. Well, we will cross that bridge later on.

859 A. All right.

Q. You say the Albany Park Bank Building was empty?

A. No, there was a safety deposit vault in there, but outside of that there was nothing else in there.

Q. How do you know that?

A. Because I was in the neighborhood.

Q. Was it only from neighborhood accounts that you knew that?

A. No, I used to live in that neighborhood.

Q. What else did you know about the Albany Park Bank business?

A. Not a thing other than it was empty. I thought it was a good spot to be in.

Q. Did you know who owned that building?

A. No, I did not.

Q. You lived in that neighborhood?

A. I did not know anything about that.

Q. But you knew that spot?

A. I did not know anything about the building until I rented it.

Q. And you lived in that neighborhood?

A. Yes.

Q. You knew it was a good spot?

860 A. Certainly.

Q. And you wanted the location in that building?

A. That is right.

Q. You never knew who owned it?

A. No, I swear I did not.

Q. Tell us about how you went about arranging for space in that building.

A. I went in to the girl and asked her what it would cost to rent that space in the building, and who was the owner, and she said I would have to see Mr. Goldstein.

Q. Go ahead.

A. I went down to see Mr. Goldstein, and tried to rent the premises from him, I think I saw him three or four times, I don't know how many times I did see him before I rented it, and he asked me what I could pay and I said I don't know what I could pay, but that I could not pay a whole lot. He said, "I want \$75.00 a month," and I said, "I don't think I can pay you \$75.00 a month," and finally, I broke him down to \$50 a month.

Q. Do you know who owns that building?

A. I imagine Mr. Goldstein does, I do not know other than that, that is where I paid the rent, I paid him the rent for the building.

861 Q. Unless Mr. Goldstein owns the building you do not know who owns it?

A. If he owns it, he is the one I talked to.

Q. I will ask you again, do you now know who owns that building?

A. I could not say whether he owns it or not, but I presume he does.

Q. You do not know for sure who owns it?

A. No, I don't know for sure who owns it.

Q. You say there were vaults in that building?

A. Yes, safety deposit vaults.

Q. And they were in charge of a girl?

A. Yes, sir.

Q. What is her name?

862 A. Helen Koop, I guess.

Q. Did you see people coming to that vault?

A. Yes.

Q. Whom you knew?

A. Yes, quite a few.

Q. Tell us the people that you saw coming to the vault that you knew.

A. Old timers that I have known from the Northwest Side of Chicago all my life.

Q. Tell us a number of them for the record.

A. You mean some of the people that have safety deposit vaults?

Q. Yes, that you knew.

A. A party by the name of Winebreaker.

Q. What is his first name?

A. I do not remember his first name.

Q. Go ahead and state a few more.

A. A lot of people, I cannot remember their names, sir, I know them and forget their names.

Q. Mr. Sommers, did he have a box there?

A. Not that I know of.

Q. Did any of your customers in the currency exchange also have a box in the vault?

863 A. Yes, the customers had a box, a lot of them did.

Q. And some of the gambling customers of the currency exchange, did they have boxes?

A. Not that I know of.

Q. Not that you know of?

A. No.

Q. Not a single one?

A. I could not say they did.

Q. What books and records did you keep pertaining to the currency exchange business, I want you to detail each one.

A. I cancelled money orders, money order register, a statement of my business from the time I started until I went out of business.

Q. Cancelled money orders?

A. That is right.

Q. What next?

A. The money order register.

Q. The money order register?

A. That is right.

Q. And what was the third record?

A. A statement of my business.

Q. And what did that include?

A. That included my earnings for income tax purposes.

Q. Are those all of the records that you kept covering that business?

A. That is right, that is all that I thought was necessary to keep.

Q. I am asking you if those are all of the records you kept covering the business from the time of its inception of its closing?

A. Yes, sir.

Q. Do you mean that answer?

A. Sir?

Q. Do you mean that answer?

A. Absolutely.

Q. What do you mean to include among the statement of business, what records?

A. My profit and loss sheets for income tax purposes for my own personal use."

Mr. Hurley: The portion from there on, the rest of 497 to the bottom of 410 was read yesterday.

(Continuing reading:)

"Q. Who else was there when you burned them?

A. No one else.

Q. Did your partner Hartigan know that you burned the records of the business?

A. No, sir.

865 Q. Did you tell him about it?

A. Yes.

Q. What did he say?

A. I told him they were of no further value to anyone and no use to anyone, so why should we have them laying around, there is no use of my carrying them around with me, the only records I actually needed are those that I am keeping.

Q. Did you ever hear of criminal evidence?

A. Well, I suppose I did.

Q. If a man is killed with a gun then the gun is evidence of a crime, isn't it?

A. That is right.

Q. Don't you suppose that those sheets might have been of some value to the United States Government?

A. You folks had plenty of time to come out there and get them if there was anything to go on, I didn't know

anything about it; if I knew anything about it I certainly would have kept them.

Q. Do you know a man named Frank Clifford?

A. I don't know him, no.

Q. Do you know of him?

A. Not that I can say now.

866 Q. What can you say about him?

A. I cannot say anything about him.

Q. Didn't he make contact with you along last fall?

A. There was somebody made contact with me, I tell you the truth, I had a lot of domestic trouble at that time and my head was in a whirl and I do not know just exactly what took place.

Q. Mr. Clifford identified himself as an Internal Revenue officer when he made the contact with you, didn't he?

A. I guess he did.

Q. He did?

A. I just cannot recollect.

Q. And he made an appointment for you to come down to his office?

A. Well, I do not know just what it was.

Q. Did you destroy those sheets before he made contact with you?

A. Way before.

Q. Did you destroy those records way before or after you made contact with Mr. Clifford?

A. Before, away before.

Q. Before?

867 A. Yes, sir.

Q. About when did Mr. Clifford make that contact with you?

A. I do not know just what date, it must have been in October some time.

Q. What time in October did you destroy the records?

A. About the 2nd or 3rd day of October.

Q. Were you ever cautioned by anyone to keep those records?

A. No, sir.

Q. Not a living soul on earth ever told you to keep those records?

A. No.

Q. You realize you are under oath, don't you?

A. Absolutely, and I am telling you the truth.

Q. And you realize the consequences of failing to testify truthfully before the Federal Grand Jury?

A. I have a clear conscience, sir.

Q. You do?

A. Yes, sir.

Q. And you were never told to keep those records by any living soul on earth?

A. No, sir, because I have my own figures.

Q. Do you know a man by the name of Bagshaw?

868 A. Yes, sir.

Q. What do you know about him?

A. He was my auditor.

Q. He was your auditor?

A. Yes, sir.

Q. Did he audit these books from time to time?

A. Every month.

Q. What do you say, do you say that you never were told to keep those records?

A. He never advised me to keep any records only what I used for income tax purposes.

Q. What did he say in that respect?

A. I could not say that he said anything, we never talked about it.

Q. No conversation about it at all?

A. No, there was no reason to talk about it.

Q. Where are those records which you retained and did not burn?

A. At my brother's home.

Q. At your brother's home?

A. Yes, sir.

Q. Where is that?

A. 4948 North Spaulding avenue.

Q. What is his name?

869 A. Ralph Brown.

Q. What is his business?

A. Insurance.

Q. Where have you been since you broke the appointment with the Internal Revenue Agent Frank Clifford?

A. In Chicago.

Q. All of the time?

A. Practically, yes.

Q. Please detail your whereabouts since you broke the appointment with the Internal Revenue Officer.

A. Well, I went to Dubuque, Iowa one day and I went—

- Q. About when did you go to Dubuque, Iowa?
A. I went to Dubuque, Iowa the day Mr. Clifford called me.
Q. That very day?
A. Yes.
Q. What time of day did you leave Chicago?
A. About one or two o'clock, some time in the afternoon.
Q. What time?
A. I don't know what time.
Q. How did you go to Dubuque, by train or automobile?
870 A. By bus.
Q. Who went with you?
A. I went by myself.
Q. Who did you see in Dubuque?
A. I don't know anybody there.
Q. Where did you stay in Dubuque?
A. I did not stay in Dubuque.
Q. Did you stay over night there?
A. No.
Q. Where did you go to from Dubuque?
A. To St. Joe, Michigan.
Q. Where did you stay in St. Joe?
A. At Whitcomb Hotel.
Q. At the Whitcomb Hotel?
A. Yes, sir.
Q. Under what name did you register?
A. Under my own name.
Q. As S. Brown?
A. Yes.
Q. Where did you register from?
A. From Chicago.
Q. How did you go from Dubuque to St. Joe, Michigan?
A. Through Chicago.
Q. You came through Chicago?
871 A. Yes, sir.
Q. You came through Chicago from Dubuque to St. Joe, Michigan?
A. Sure.
Q. Did you stop at Chicago?
A. No, I took the North Shore train and bus out.
Q. Who, if anyone, in Chicago, did you see that you knew?
A. I did not see anybody.

Q. Didn't you communicate with anyone in Chicago?

A. No, sir.

Q. Now, let us understand, please, you left Chicago and went to Dubuque?

A. Yes, sir.

Q. And returned from Dubuque to Chicago?

A. That is right.

Q. And then went from Chicago to—

A. Michigan.

Q. What place in Michigan?

A. St. Joe.

Q. St. Joe?

A. Yes.

Q. Now, upon the occasion when you returned from
872 Dubuque to Chicago, how long did you stay before you left for St. Joe, Michigan?

A. I only stayed a couple of hours in Dubuque.

Q. You do not understand the question.

A. I am sorry.

Q. How long did you stay in Chicago before you left for St. Joe, Michigan?

A. I would say a couple of hours.

Q. You did not communicate with anyone in Chicago?

A. No, sir, I had trouble with my wife at that time, and I was much **disgusted**.

Q. Do you know Mr. William Goldstein?

A. Yes, sir.

Q. How long have you known him?

A. Since I rented the premises there.

Q. A little louder, please.

A. Since I rented the building there.

Q. You knew he is the attorney for Mr. Skidmore and Mr. Johnson, do you not?

A. That is what I heard.

Q. You know that, don't you?

A. I do not know it other than reading it in the newspapers.

Q. Were you in contact with Mr. Goldstein at
873 any time after Internal Revenue Officer Frank Clifford made contact with you?

A. Never, never.

Q. Either directly or indirectly?

A. Never.

Q. You went to St. Joe, Michigan from Chicago?

A. Yes.

Q. How long did you stay in St. Joe?

A. About a week.

Q. Who, if anyone, did you see there that you knew?

A. I was looking around to see whether I could go in business there.

Q. Well, you have not answered the question.

A. I did not see anyone in particular.

Q. Thank you. While in St. Joe, Michigan, did you communicate with anybody either directly or indirectly?

A. No, sir.

Q. You did not make any telephone calls to Chicago?

A. I might have.

Q. All right, who did you call?

A. I called my wife.

Q. You did?

874 A. Yes.

Q. Long distance?

A. Yes.

Q. From the hotel?

A. From the hotel.

Q. What conversation did you have with your wife, so far as this currency exchange business is concerned, I do not care to invade you domestic affairs.

A. I did not have any conversation with her to amount to anything.

Q. And after you left St. Joe, Michigan, where did you go?

A. I went to Milwaukee.

Q. Where did you stay in Milwaukee?

A. The Schrader Hotel.

Q. At the Schrader Hotel?

A. Yes, sir.

Q. Under what name did you register?

A. My own name.

Q. Did you communicate with anyone at all while at the Schrader Hotel?

A. No, sir.

Q. No one at all?

875 A. No.

Q. In going from St. Joe, Michigan, to Milwaukee, Wisconsin, what route of travel did you take?

A. I came to Chicago and took the North Shore train.

Q. How long did you stay in Chicago on that occasion before leaving for Milwaukee?

A. Just long enough to go through.

Q. How long did you stay in Milwaukee at the Schrader Hotel?

- A. One night.
Q. Then where did you go?
A. To Chicago.
Q. Where in Chicago?
A. To my brother's house.
Q. After leaving your brother's house, which I take as
4948 Spaulding—
A. Yes, sir.
Q. —where did you go?
A. No place in particular.
Q. Have you been in Chicago ever since?
A. Yes, sir.
Q. And have you been in communication with your
wife?
A. No.
876 Q. Aside from the one telephone call that you made
to her from St. Joe, Michigan, you have not com-
municated with her at all?
A. That is right.
Q. Have you communicated over this period of time
with Jimmie Hartigan?
A. No, sir, I have not seen him.
Q. I beg your pardon?
A. I have not seen him.
Q. Have you communicated with him?
A. No, sir.
Q. Or with Mr. Goldstein?
A. No.
Q. Tell us for what period of time you were with your
brother?
A. About six or seven weeks.
Q. About six or seven weeks at his home?
A. Yes, sir.
Q. Was that a continuous period?
A. Practically, yes.
Q. Practically?
A. Yes.
Q. Between what dates?
A. I could not tell you.
877 Q. Oh, yes, you can, this is fresh in your mind.
A. I said six or seven weeks up to now.
Q. Did anyone accompany you on the trips you de-
scribed to this Grand Jury?
A. No.
Q. Why were you moving around so rapidly?
A. My domestic troubles, and everything else just pes-

tered the life out of me, and I just felt that I wanted to get away from everybody and everything, that is all, to get a quiet mind, I had not been working or earning any money, and naturally you know what those things are in a home.

Q. On the occasion that you telephoned your wife from St. Joe, Michigan, did she advise you that the Government was looking for you?

A. She did not say anything to me at that time, I do not think, no.

Q. Don't you know that your wife has been a witness before the Federal Grand Jury?

A. I believe she was.

Q. You know she has been questioned as to your whereabouts, hasn't she?

A. I imagine so.

Q. Where did you tell your wife you were going to go when you left Chicago?

A. I told her I was going to Dubuque.

Q. Did you tell her where in Dubuque you were going?

A. No, I told her I was going to Iowa because I was familiar with Iowa, and I thought maybe I could locate something down there, but I found there was no use in going into Iowa at all.

Q. You live at 4200 Hazel avenue?

A. Yes, sir.

Q. And Bill Johnson lives at 4224 Hazel avenue, doesn't he?

A. I don't know.

Q. Well, his mother lives there, doesn't she?

A. I don't know, I never saw her in my life.

Q. You know that you can reach Bill Johnson at his mother's home any time that you want to?

A. I never knew anything about that, I don't know if I could, I never knew my next door neighbor, even, I was never home much.

Q. While you were skipping around the country in the manner you have described, where was Bernice Downey?

A. I don't know anything about her.

Q. You don't know that your partner Jimmie Har-
879 tigan took her to Florida?

A. I don't know anything about that.

Q. How did you happen to come in to the Government, more or less surrender yourself as a witness?

A. I had got a summons there at my brother's house.

Q. Who made the contact with you to come into the Federal Building here?

A. No one.

Q. Then why did you come in?

A. Because I was summoned in.

Q. You were not summoned, who told you to come down to the building?

A. I was summoned, I had a summons waiting for me at my brother's house?

Q. At your brother's house?

A. Yes.

Q. When did you receive that summons?

A. I guess it was yesterday or the day before.

Q. This was mailed to you at your residence, 4200 Hazel avenue, wasn't it?

A. No, sir, not that I know of; it was left there by some man, I don't know what his name is, Graber, or some man named Graves, something like that.

880 Q. Who, outside of the Government service, has been talking to you about coming into the building and testifying before the Federal Grand Jury?

A. No one, sir, I did not know I was wanted to come in.

Q. Who is it behind the scene that is telling you what to do, during the last two or three months?

A. No one, that I know of, sir.

Q. Well, you would know who has been giving you directions, wouldn't you?

A. I do not know of anybody giving me any directions because I have not seen anyone.

Q. What was the purpose of your visiting Dubuque, Iowa, St. Joe, Michigan, and Milwaukee, Wisconsin?

A. Just to get away from myself, to quiet my own mind, that is all, and figuring out, maybe I could open a currency exchange in some of those places.

Q. Have you been in Missouri since you ran away from Revenue Officer Frank Clifford?

A. No, sir, and I never ran away from anybody.

Q. Have you been any other place than those you have described to the Grand Jury?

A. No, sir.

881 Q. Are you quite positive of that?

A. Yes, sir.

Q. Have you told the whole truth to the Grand Jury as to your whereabouts?

A. Yes, sir.

Q. Since you destroyed the records or burned the records of the currency exchange?

A. Yes, sir.

Q. Now, you state that certain of the records pertaining to the currency exchange are at your brother's home?

A. That is right.

Q. Are you willing to go with a Government officer to that home and get those books and records?

A. Yes.

Q. When did you take them to your brother's home?

A. They have been there ever since I closed up.

Q. You took them there immediately?

A. Yes, sir.

Q. Did you tell your brother where you were going?

A. No, I did not, I do not tell my personal affairs.

Q. Why did you take these records to your brother's home?

882 A. I figured I had to keep them, for the outstanding checks and money order register, because there were two or three outstanding yet, and that is the only reason I did it, otherwise, I would have burned them up, too.

Mr. Plunkett: What is your brother's address, Mr. Brown?

A. 4948 North Spaulding.

A Juror: You said you do not know Bill Johnson?

A. I said I do know Bill Johnson.

The Juror: Didn't you say a while ago that you did not know Bill Johnson?

A. I did not say that.

Q. Isn't it a fact the location of your bank is 3955 Ogden avenue?

A. What bank?

Q. The Ogden National bank?

A. Yes, sir.

Q. And isn't it a fact that Bill Johnson operated at 4020 Ogden avenue?

A. That is right.

Q. And he would come into your bank very often?

A. Not often, he would come in there occasionally.

Q. Well, every day?

883 A. No, not every day.

Q. And isn't it a fact that the Lawndale Greyhound track you say was at 26th and Cicero?

A. Yes, something like that.

Q. Was really at 26th and Kostner, that is the correct address, isn't it?

A. I don't know, I was never there in my life.

Q. You were never there?

A. No, sir.

Q. You were never there with Bill Johnson?

A. No, sir, I never was in any gambling place in my life. Never did any gambling in my life.

Mr. Campbell: Anything else?

A Juror: Did you ever have any communication by note, made by a go between, did you ever have any communication in note form with anybody?

A. No, sir, no communication whatsoever.

Mr. Campbell: Anything more? That is all for the present, Mr. Brown.

(Witness excused.)"

Mr. Miller: Commencing at Page 504, Wednesday, January 10th, 1940, 1:30 o'clock P. M.

(Reading:) "The Grand Jury reconvened, pursuant to adjournment. Counsel present: Same as before.

STUART SOLOMON BROWN, called as a witness by the Grand Jury, having been previously sworn, resumed the stand, and was examined and testified further as follows:

Examination by Mr. Campbell.

Q. You are Mr. Stuart Solomon Brown?

A. Yes, sir.

Q. Please keep your voice up.

A. Yes, sir.

Q. Mr. Brown, you were present this morning and testified?

A. I did.

Q. At that time you were sworn?

A. That is right.

Q. At the conclusion of your testimony this morning, you were requested to go to your brother's home and to return with certain books and records, which you had not burned, pertaining to your currency exchange business on Lawrence avenue. Is that right?

A. That is right.

Q. Were you able to find those books and records?

885 A. Yes.

Q. They are still in existence?

A. Yes, sir.

Q. Which you referred to this morning?

A. They are all here.

Mr. Campbell: I will ask the Reporter to mark for identification, Grand Jury Exhibits 17, 18 and 19.

(Documents so marked.)

Mr. Campbell: Q. Showing you Grand Jury Exhibit 17, is that a part of the books and records which you brought to the Grand Jury?

A. All of them.

Q. Referring to Grand Jury Exhibit 17, is that a part of the records which you brought down to the Grand Jury?

A. It is all of them I have, sir.

Q. Will you answer the question, yes or no. I will ask you whether Grand Jury Exhibit 17 is a part of the records you brought down to the Grand Jury—answer yes or no?

A. I did not—"

Mr. Miller: Excuse me. Your Honor please, is that "out" mark your mark, did you put it in there?

886 The Court: I didn't put it in. You don't need to read it unless you want to.

Mr. Miller: All right.

(Continuing reading:)

"Q. You answer my questions, otherwise we will go up to the court and get an order upon you as a witness, unless his attitude changes on it. We will have to go up before Judge Woodward and get a Court order, asking that you be held in contempt for refusing to answer the Grand Jury's questions.

A. Yes, sir.

Q. Is this a part of the record which you have brought down to the Grand Jury, Exhibit 17?

A. Yes, sir.

Q. Now, will you tell the Grand Jury what Exhibit 17 is?

A. That is the cancelled money orders.

Q. I beg your pardon?

A. That is the cancelled money orders.

Q. Cancelled money orders?

A. Yes, sir.

Q. Now, showing you Grand Jury Exhibit 18, is that a part of the records of the Lawrence Avenue Currency Exchange which you brought down to the Grand Jury?

A. It is.

Q. Will you kindly state to the Grand Jury what Exhibit 18 is, if you know?

A. That is a record of the money orders that were issued and paid.

Q. Is Grand Jury Exhibit 19 part of the records of the Lawrence Avenue Currency Exchange, which you have brought to the Grand Jury?

A. Yes, sir.

Q. Will you kindly state what that Exhibit 19 is, if you know?

A. That is a record of my earnings and expenses in the operation of my business from the time I started until the time I finished.

Q. By whom?

A. By the auditor, C. F. Bagshaw.

Q. And Grand Jury Exhibit 17, contains the cancelled checks relating to the money orders?

A. That is right.

Q. And Grand Jury Exhibit 18 is a record of those money orders?

A. That is right.

888 Q. Where are your correspondence files?

A. I have destroyed them also, because they were not of any consequence.

Q. You burned them?

A. Yes, sir.

Q. Where?

A. In the Bank Building there.

Q. In the furnace?

A. That is right.

Q. Who else was present when you burned your correspondence files?

A. Well, I threw them into the furnace, and the janitor burned them.

Q. The janitor burned them?

A. They were burned. There was a pile there. I did not make a fire to burn them. I threw them into the furnace.

Q. Is that a coal furnace or a gas furnace?

A. Coal.

Q. Who opened the door of the furnace, when you pitched the records in there?

A. I opened the door, and I put them in.

Q. Is that furnace down in the basement of the building?

889 A. That is right.

Q. Who helped you to carry the records down?

A. I did—myself.

Q. Was the janitor present when you opened the door and threw these records in?

A. I do not think he was. He was upstairs, or some place. I do not remember just exactly. It was just a bunch there, of papers.

Q. I beg your pardon?

A. I destroyed them, tore them, threw them in there.

Q. You burned the correspondence files, is that right?

A. That is right.

Q. And you burned all of the records relating to checks which you cashed for your customers?

A. That is right.

Q. What else did you burn?

A. That is all.

Q. Is that all?

A. That is all, yes, sir.

Q. Did your partner, Jimmy Hartigan, or James A. Hartigan, know that you burned those records?

A. I told him about it.

890 Q. What did he say?

A. Well, he said 'if they are of no more use to you, in connection with your records', why he said, 'except as far as my income tax was concerned—that is all that was necessary.'

Q. Before you burned these records did you discuss the matter of the burning with your partner, James Hartigan?

A. No, I did not.

Q. Did you mention it to him in any way?

A. No.

Q. So, it was after you had burned the records that you mentioned the matter to your partner, James Hartigan?

A. That is right.

Q. Did you advise Bernice Downey that you intended to burn these records?

A. I mentioned to her there is no use in keeping them

—no use in keeping them—we might as well get rid of the excess papers that we did not actually need for anything.

Q. What did Bernice say about that?

A. She said all right.

Q. Why did you not allow her to do some of the 891 burning?

A. After all, I was running the operation of that place, and she was just merely a clerk.

Q. She was merely a clerk?

A. Yes, sir.

Q. In other words, she had no voice in the management of the business?

A. She has never had any experience, of any kind, in that kind of a business. I had to teach her everything that she had done.

Q. Aside from that, did she have any voice in the management of the business?

A. I would say no.

Q. Now, before you went to the Central National Bank, on Halsted street, with your currency exchange business, what other bank, if any, did you patronize?

A. North Shore National.

Q. Where is that located?

A. On Howard street.

Q. What address on Howard street?

A. I just do not know the number there, sir. It is on Howard, near Clark.

Q. North Shore National Bank?

892 A. That is right.

Q. Did you have an account there?

A. I did, that is where I commenced.

Q. Under what name?

A. Under the Lawrence Avenue Currency Exchange.

Q. Now, in the removing from the North Shore National—or why did you remove your currency exchange account from one bank to the other?

A. Well, they could not handle my operations satisfactorily for me—they went along—the rates were much higher at the Central National Bank than they are at other banks. There are three banks in Chicago that make a practice of handling currency exchange accounts.

Q. Did the first bank have any objection to your currency exchange business?

A. They did, yes.

Q. In what respect?

A. Well, we had return items—they did not like to have the return items, and they preferred—or they felt that they did not want that kind of business.

893 Q. Specifically, as an ex-bank cashier, kindly explain to the Grand Jury, will you please, what you mean by a return item?

A. A check that is returned for insufficient funds, or it might have been stopped, for endorsement, or any other negotiable instrument, that would require proper handling.

Q. Among these different classes of return items that you have mentioned, which particular class was the greatest?

A. Well, I would say that the checks were.

Q. What?

A. The checks,—not on my own, so much, as it would be on those received from Hartigan.

Q. In other words, the gamblers rustled checks?

A. Yes.

Q. Checks that came from gambling houses, bouncing?

A. Yes.

Q. And the first bank objected to the number of checks which were bouncing, is that right?

A. That is right.

Q. For that reason you took your business from one bank to the other?

A. No, that was not the reason.

894 Q. That was not the reason—

A. They requested me to take my account out.

Q. In other words, you were invited politely to get out of the bank?

A. No.

Q. Because of so many 'non-sufficient funds' checks?

A. It was not as many as you enumerate there—what it seemed to be—but it was more than they probably cared to have.

Q. Did you have any difficulty in renewing your banking connection with the Central Bank?

A. No, sir. I had my account opened before I had my account closed.

Q. What was that?

A. There is an association in Chicago—after we rented that place, they went and put pressure on me not to have my account opened, and I had to iron that out with them.

Q. Just what do you mean by that, kindly explain what you mean by ironing it out?

A. There is an association in Chicago called the Chicago Currency Exchange Association that objected to me having that place of business there, because there was another one around the corner. In other words, they wanted to put 895 me out of business.

Q. Did anyone assist you in ironing out that difficulty?

A. I do not know, anybody directly—no one directly assisted me.

Q. Well, if Wiley and Cagy witnessed—did anyone assist you, indirectly?

A. I do not know. I imagine someone did.

Q. Can you imagine who that somebody was?

A. Well, I reported to Mr. Goldstein, and after all I had given his name as a reference down at the bank and I said to him, 'it seems like we will have difficulty in getting my account started,' and he may have gone down to the bank to talk to them for me.

Q. He may have?

A. He may have. I was not there, if he did, because I know they opened my account and conducted my business.

Q. Do you know whether or not Mr. Goldstein did in fact go to the Central National Bank?

A. I do not know. I certainly did not—I was not there, as I say; and he never told me about it. I told him about my difficulty.

896 Q. Did you request him to go?

A. No, I did not.

Q. Why did you go to Mr. William Goldstein in any event?

A. I was in the place of business there, and if I was cut off from my bank connection I would be out of business.

Q. How did you come to go to the Central National Bank?

A. Because we found out they were the only one of the banks that handled currency exchange business.

Q. Is that the only reason you went to that particular bank?

A. Positively.

Q. Absolutely?

A. Yes, sir.

Q. No question about that?

A. That is right.

Q. Does Mr. Goldstein have a brother who is a stockholder in the Central National Bank?

A. I swear that I do not know.

Q. Do you know an Abe Winter?

A. Yes, sir.

897 Q. Did he have anything to do with your going to the Central National Bank?

A. No, sir.

Q. What is his relationship, if any, business or otherwise, between Abe Winter—

A. Abe Winter—his business, coming to the bank as a customer, on the Ogden National Bank. This is the first that it came to me,—that I know of—that he ever said anything to me.

Q. What is his business?

A. He is in the automobile loans.

Q. His name appears as the one who referred your business to the Central National Bank, does it not?

A. Well, it may be,—because I really do not know him—for the simple reason—I went down to see him, and I told him I was opening up a currency exchange business, and told him I was going to have some money, and I think he said that if he could—'If I can do anything, put in a good word, I will.'

Q. Did not Mr. William Goldstein direct you to take your banking business to the Central National bank because his brother was a stockholder in that bank?

A. No, sir.

898 Q. Nothing like that?

A. Absolutely.

Q. If Mr. Goldstein says that he did—is that right or wrong?

A. If he did—I did not—I do not know what he would say. I am telling you the truth.

Q. What did you understand Mr. Goldstein was doing, in ironing out this difficulty, to use your expression?

A. I know he was an attorney. I thought maybe he could help me. I did not know anything about Mr. Goldstein, other than that short period that I knew him.

Q. Was he your attorney?

A. No, sir.

Q. Whose attorney was he?

A. He acted as my landlord.

Q. Well, that does not create the relationship of attorney and client, Mr. ex-cashier of the Ogden National bank.

A. Being an attorney, and being the owner of the build-

ing—we were renting from him then, and the most natural thing would be, it would be to his interest to have us remain—stay in the building.

899 Q. He is a lawyer, and he charges fees for his services?

A. He may, but he never charged me.

Q. Can you account for that?

A. Positively. You can look through all my records.

Q. Those that you did not burn, I can look through?

A. All of my records.

Q. Those that you did not burn?

A. Those that I burned, sir, I absolutely felt at that time were not necessary for me to keep, because all I was required to keep—I was not under supervision of the Government or State—to keep the records—and I kept all that was necessary for my personal affairs, and income tax for the Government—what the Government would care to see about my books, and this auditor's report, and that is the conclusive thing. I would not have done that if I had known the Government wanted them. I certainly, positively, would have kept them, so help me, I would have.

Q. Why did you go to Mr. Goldstein and ask his intervention in assisting you in establishing a banking connection with the Central National Bank?

900 A. I did not go to him, sir. I talked to him—telling him what difficulty I was having.

Q. Why did you talk to him, in any event? Why did you talk to him?

A. After all, I was renting from him, and if I did not get a banking connection I would not be in business.

Q. Did you take it up with Mr. Hartigan, after you were going to be kicked out of one bank, and would have to go to another bank?

A. I believe I did.

Q. What did Jimmy say about it, to you?

A. He did not mention anything. He said, 'It is up to you; go ahead'—and do my own business.

Q. You had put \$2,000.00 apiece up—you had about \$2,000.00 apiece up there?

A. That is right.

Q. And you had to have a banking connection?

A. That is right. Otherwise I would not be in the currency exchange business.

Q. I beg your pardon?

A. Otherwise I would not be in the currency exchange business.

Q. Notwithstanding the fact of that situation,
901 Mr. Hartigan said you should go ahead and do whatever you wanted to do?

A. That is right.

Q. He did not suggest you go to see anyone?

A. No, sir.

Q. Not to go to Mr. Goldstein?

A. No.

Q. These correspondence files that you burned up. What did they contain?

A. They did not contain hardly anything—just the letters from the banks, maybe on some checks, on uncollected funds, or insufficient funds—to tell you the truth there is very little of it.

Q. Suppose you state the best you can remember what that file contained in the way of correspondence?

A. It was letters.

Q. To whom, from whom?

A. Some were to the old banks.

Q. Relating to what?

A. To checks that were N. S. F.

Q. Of suckers who had lost those checks in gambling houses, is that right?

A. Not necessarily.

902 Q. Not necessarily?

A. Yes, sir.

Q. What do you mean by your last answer?

A. They would be possibly on other business, letters on other business.

Q. Among the letters, were those relating to checks of customers of the gambling houses, who had lost those checks in those houses—is that right?

A. It might have been.

Q. That is the fact, is it not?

A. I say, it might have been.

Q. I say, is not that the fact?

A. Yes, sir.

Q. I am not going to shout at you any more—I do not think. I am going to ask that this Grand Jury vote on a contempt citation of your conduct, and take you to the Judge, if you persist in the attitude you are now as-

suming. You can answer these questions without all of this beating about the bush. Did you utilize the services of any credit agency?

A. Yes, sir.

Q. In the conduct of this currency exchange business?

903 A. I did.

Q. What credit agency?

A. National Appraisal.

Q. I beg your pardon?

A. That is Hill's report—National Appraisal, I could say.

Q. In what respect did you use Hill's report in conducting this currency exchange business?

A. There were times when Mr. Hartigan would come in there and say: 'Get a report of so and so, and see whether his credit is good,' and they wanted to see that the—these checks were good, that they were cashing.

Q. Did you charge them a fee for that service?

A. Yes, sir.

Q. How much did you pay Hill's report for such a report as that?

A. \$1.25.

Q. How much did you charge Hartigan for such a report?

A. \$2.00.

Q. You made 65 cents profit?

A. That is right.

Q. Where are those files?

904 A. They were destroyed immediately, because I reported to Hill's I would never let them out of my hands—they would look them over—get their information, and I would destroy them, because we had no further interest in them.

Q. By what method would you destroy them?

A. Tore them up.

Q. You mean that you made that destruction before you closed business?

A. Right along.

Q. Right along?

A. Every time we got a report, and read it, I would not give it out of my hands.

Q. Did you get any letters from time to time from the Armored Car Service people?

A. No.

Q. Did you have any Armored Car Service delivering currency?

A. Yes, sir.

Q. From the Central National Bank to your place of business?

A. That is right.

Q. Did you receive any letters from time to time with respect to that particular phase of your business?

905 A. Nothing in particular—I would get nothing, not their moneys—I would not say, maybe one or two, asking me for my business, something like that, a statement every month.

Q. You did receive such letters?

A. Yes, sir, letters and statements from the Armored Car Service, but nothing particular to any business transactions.

Q. What did you do with those letters?

A. They have been burned with my correspondence, because they did not amount to anything, sir.

Q. How did you use the Armored Car Service in connection with your currency exchange business?

A. I would call for money, at the Central National Bank, and it would come out by the Armored Car Service, if I call in the afternoon, and they would bring it out to me, or I could call in the morning and they would bring it to me in the afternoon.

Q. That would run into several thousands of dollars a trip?

A. That is right.

Q. The Armored Car people delivered to you several thousand dollars in currency?

906 A. That is right.

Q. They would pick up a batch of checks, and take them back down, would they not?

A. That is right.

Q. To the bank?

A. Yes.

Q. And as those checks were cleared, they would send a load of currency back from the bank?

A. Yes, sir.

Q. Was there any correspondence relating to that?

A. There was not correspondence—I will explain that to you. When we made our deposits they were deposited

against uncollected funds, and we were charged interest by the month, for that purpose. If I called them up in the morning, I would gauge my deposits, the night before, and when they brought the currency, they would take my deposit back.

Q. Did they not write you letters from time to time, and tell you the amount of currency they were delivering to you by the Armored Car Service?

A. No, sir, never.

Q. And they never wrote any letters to you about how much money they were sending?

A. That was just the way they handled my deposits, 907 when the currency came back, all I did was sign the Armored Car expressman's book.

Q. And the Central National Bank never wrote you a letter about that matter at all?

A. Never about currency.

Q. And did not write, in substance, stating, 'We have delivered \$3,500.00 in currency'?

A. No. I would call them up and tell their paying teller what I wanted, and he would make up what I wanted.

Q. If there should be a carbon copy of such letter in the files, which the Central Bank has produced here, would you say, notwithstanding that, that you did not receive the originals of such letters?

A. If I received them—I do not recollect them.

Q. That is a little different.

A. I cannot recall really having received them, to tell you the truth.

Q. Do you say that did or did not happen now?

A. I would say I cannot recollect them. I would not want to put myself on the offensive.

Q. Just for your information, the file that the Central National Bank produced here, contains letters—or carbon 908 copies of such letters, and at a later appearance before the Grand Jury I shall confront you with them.

A. O. K.

Q. Now, you had many checks returned marked "N. S. F." Is that right?

A. That is right.

Q. Which, in the banking world, means—

A. 'Not sufficient funds'.

Q. Many of those checks came to you from the gambling houses which you were servicing—is that right?

A. Yes, sir.

Q. What did you do with those checks?

A. I would take them off of what they had coming, or they would come in and pay me the cash for them immediately.

Q. What did you do with the physical check itself?

A. Returned it to them.

Q. Returned it to them?

A. Yes. Never put it through—very seldom—a second time. There were times I did, but very seldom."

(Mr. Hurley thereupon resumed reading as follows:)

909 Mr. Hurley (Reading):

"Q. Now, from the time you opened this currency exchange, which was in 1938, until you closed it in 1939—

A. Yes, sir.

Q. How many dollars worth of checks did you handle for these gamblers?

A. I could not recollect the total, sir.

Q. Just a little louder, please.

A. I could not recollect the total.

Q. Can you give the Grand Jury an approximate figure?

A. Well, it might have been 40 per cent, of my own—and maybe 60 per cent of theirs.

Q. 40 per cent of your business was business from the gamblers?

A. 40 per cent was my own business, off the street.

Q. 40 per cent was your own business off the street?

A. Yes.

Q. And 60 per cent was the business of the gamblers?

A. Yes, sir.

910 Q. Would you say roughly that is the proportion?

A. I would recollect it would be—I am really not sure. I would not like to have that put in as a statement, because I am not certain.

Q. We understand that is subject to a little variation there, but would you say, as a rough division, that is your best judgment—in the absence of your burned books and records—you say the books and records have been burned—we will have to presume these things, which can be done in a court, and you say that the division, roughly, is 60 per cent and 40 per cent?

A. Something like that, I would say.

Q. In other words, 40 per cent came from legitimate business, from the street?

A. That is right.

Q. 40 per cent of the volume of your business, was it?

A. Yes.

Q. And 60 per cent came from outlaw business—or these gamblers—is that right?

A. Whatever you want to call them.

Q. Is that the situation? Is that the fact?

911 A. Yes, sir.

Q. Now, in order to accurately determine that division, it could be mathematically determined—it would be necessary to have access to these records which you described, would it not, Mr. Brown?

A. Not necessarily.

Q. It can be done otherwise, can't it?

A. Yes, sir.

Q. How?

A. By the banks. It can get that information from the bank.

Q. How does the bank know which checks came from gamblers, and which checks came from legitimate business?

A. They have got our deposit checks, or tickets, and they can figure them up, and make the division.

Q. On the 60-40 basis?

A. Yes. That would not be so hard to do.

Q. Without applying the formula 60-40, you could not figure it mathematically, could you?

A. No, no way I know of.

Q. If you had retained them?

A. That would be the only way you could get it,
912 out of my books.

Q. If you had retained these books, upon which you listed these checks, the bank on which it was issued, and the name of the last endorser—if you had retained those checks, you could tell how much business came from the gamblers—from the gambling houses, could you not?

A. Well, that is just hard to say, sir, because there was many checks payable to cash, without endorsements on them. Many checks are payable to cash, and I take them in my own business. It would be hard to make the division.

Q. Did you make a note on these sheets, listing the checks, as to who brought the checks in?

A. Not necessarily, because we had tapes of the detail—and the totals, that they would bring in.

Q. Did not Maurice Downey bring in a load of checks to you?

A. Yes.

Q. Did not Marvin Downey bring in some checks?

A. Yes.

Q. Did you mark on those checks, or sheets you got from Marvin Downey, or Maurice Downey, whoever has brought in the check?

913 A. It might have been in some cases, but we did not do it in all cases.

Q. Did you have some kind of a symbol which you would put on the checks to indicate which check came to you from Kelly's gambling house?

A. I might have done that.

Q. You had on those sheets some symbols which indicated the checks that came from Jack Sommers' place of business?

A. I might have shown some.

Q. It is the fact?

A. I did not handle that—I let the girl type those things up for me.

Q. What girl?

A. Miss Downey.

Q. You kept those records in such a fashion that you could tell whether a check came from Bill Kelly, Jack Sommers, Jimmy Hartigan, or Andy Creighton, did you not?

A. I would say yes.

Q. You had to do that in the ordinary course of business, otherwise you would get the business all mixed up, and could not tell who brought a check in?

A. When I paid that, sir, we always paid by the tape,—we had the tape, with the total they brought in. That
914 tape I kept until I discharged the payment. I did not use the book for that purpose.

Q. When a check, or a number of checks came in from a gambling house, you did not show on those checks from whom they came, did you?

A. No, I got it the next day—and sometimes the same day.

Q. And as you cleared those checks through the bank, did you make a notation on that?

A. No, they paid on uncollected funds.

Q. What?

A. They were paid against uncollected funds. They do that at all the currency exchanges. Being charged for one day's interest, or two days' interest, until the final payment is made at the end of the month.

Q. The bank is willing to pay out in excess of the balance which you maintain at the bank?

A. They will pay up to the last dollar in the currency exchange.

Q. The last dollar of what?

A. If I had \$5,000.00 in checks, they would pay \$5,000.00.

915 Q. Suppose you had \$1,000.00 when you came into the bank, would they still pay the excess?

A. Do you mean if I had \$1,000.00 plus \$5,000.00?

Q. In the Lawrence Avenue account?

A. Yes, sir.

Q. In the Central National bank, and assuming you only had \$1,000.00 on deposit—

A. Yes, sir.

Q. —then, that is all you had in the account, and you took in \$5,000.00 in checks from the gamblers do you mean to say that the bank will cash in full the \$5,000.00 of checks?

A. Yes, if we get in there we can get it the same day— if I could have gone down I would have gotten it the same day from any of the windows.

Q. Did not the bank notify you that they would not allow you to cash checks in excess of the balance that you maintained at the bank?

A. No, sir.

Q. Nothing like that happened?

A. I really do not remember anything like that, sir.

Q. Well, you had currency coming through, all the time from the bank?

916 A. Always had checks going to be deposited, and currency coming back.

Q. You had on hand currency which belonged to the gamblers?

A. Yes, sir.

Q. Representing the proceeds of checks cashed for them?

A. That is right.

Q. As they would bring in their bundle of checks?

A. Yes, sir.

Q. You would deliver to them currency, to the amount of the face of the checks?

A. That is right.

Q. But you would not pay out on those particular checks immediately, would you?

A. We always did. The only difference was, that there

might have been times that I had currency there—in other words, I would get checks one day and pay them out the next day. There would be one extra day.

Q. Why did you not pay them immediately?

A. Well, if there were a small amount, \$500.00, or \$300.00, it may be that I would pay them in cash, from my own drawer—but because of a larger amount, and I 917 did not have that much money on hand, I only had \$4,000.00 to work with.

Q. And sometimes these checks would come in at the rate of many thousands a day?

A. \$2,500.00—\$3,000.00, \$4,000.00.

Q. \$10,000.00?

A. There might have been some of those items. It might have been as high as that—\$10,000.00—that we put aside to cover the checks cashing feature, and the currency feature—

Q. Of the currency exchange business—aside from that service which you rendered to the gambling houses?

A. Yes, sir.

Q. Did you render them any other service?

A. No, except those reports.

Q. And aside from the reports, and the cashing of the checks, is it your testimony that you did not render them any other service?

A. Positively not.

Q. Positively not?

A. That is right, I swear to it.

Q. Did you not obtain bags of coin from the banks?

A. Do you mean get silver?

918 Q. Yes.

A. I do not know what you mean—surely I would get silver for them.

Q. You would get bags of silver—have bags of silver brought out, from the bank?

A. Yes.

Q. Brought to the currency exchange—what would those bags of silver be?

A. Well, they could be nickels, quarters, or half dollars, nickels, something like that. Certainly it is the same as currency.

Q. Then the messenger from the gambling houses would pick up those bags of silver?

A. Currency, yes.

Q. Why do you suppose they were giving those silver coins?

A. I do not know, sir. It is not province. I do not know.

Q. What about converting bills—little bills—

A. Yes, sir.

Q. —into C-notes?

A. I do not say that I have very much converted little bills into C-notes, or exchanged old money for new money.

A lot of times they would give C-notes. They would have them in the large notes, for their checks.

Q. In other words, you took the old, worn out bills, and exchanged them for new bills?

A. That is right.

Q. That was a service?

A. That is right.

Q. Then, you would take the little money, and convert it into big money, into \$100.00 bills, sometimes called C-notes, in your service?

A. I never got much of that, I do not believe.

Q. But it has happened, has it not?

A. I suppose it has.

Q. You converted little, and worn out currency, into \$100.00 bills, and returned the new \$100.00 bills to the gamblers, did you not?

A. If you will pardon me, or if you will permit me, I will say—very little that we did—

Q. If you will answer my question, yes or no, you can make any explanation that you wish, or you may define it.

A. I am trying to state the facts.

Q. Did you, yes or no?

A. Yes.

920 Q. Go ahead, make any explanation you care to?

A. I had very little occasion to do that at all. As I have said, we exchanged old money for new money. They want new bills. They may want new fives—because they use them in their business, I suppose.

Q. Is the \$100.00 bill the largest bill which you obtained for them?

A. Yes, sir.

Q. So, they brought to your currency exchange not only their checks to be cashed, but they brought to your exchange coins and bills, did they not?

A. To be exchanged, yes.

Q. Yes, to be exchanged?

A. Yes.

Q. Did you keep any record pertaining to the amount of coin and bills which they brought to the currency exchange to be exchanged?

A. I handled that on the tape, the same as we did with the checks.

Q. What did you do with that tape?

A. We kept it from month to month, and then destroyed them?

Q. Burned them?

921 A. Absolutely.

Q. What volume of business, in dollars and cents, coming from these gambling houses, was in the form of coin and currency, how much money a month?

A. That would be included in any total of my business, because that would be on the deposit ticket, the same as if it was a check, that I deposited. If I deposited old currency, and got new currency back, the currency and the checks would be included together.

Q. Well, did you not handle currency for them, which would not be reflected on your deposit tickets?

A. No, because if that came in—any currency I draw for them would have to be deposited, and I would give it to them, the same as if a check. It is practically the same transaction.

Q. Could you take that currency to the bank and exchange it into \$100.00 bills without depositing it?

922 Q. The Armored Car could handle that service, without depositing it in your account?

A. They did not do that. The Brinks do that, not the Armored Car.

Q. You take their currency, and it would be delivered to your Currency Exchange, and from there deposited by you in the bank account?

A. Yes.

Q. And you could draw against it by check?

A. I would not draw a check that way. My account would be charged.

Q. They would charge the account, and deliver it back into currency or coin as you directed?

A. Yes, sir.

Q. Were all the checks of the Currency Exchange drawn against its bank account?

A. All the checks that I had, up to date, were burned also.

Q. They were burned also?

A. Except, after the close of my business, after everything was wound up and everything was paid, and everything was taken care of, except \$136.00 of outstanding money orders—that is all that was left in my account.

Q. And you described everything?

923 A. I did, because I did not want anybody to get hold of my signature. Of course, it had the signatures on it. And on those things, if somebody got them, they might say that there was a check not paid, and I would have to show my cancelled voucher.

Q. And who assorted this evidence and told you what to burn and what to keep?

A. No one—no, one, sir; and no one ever talked to me.

Q. Does it not occur to you that you burned all the evidence relating to the business of the gamblers, with the sole exception of the money orders or records, which are retained in these entries—and everything else pertaining to the business of the gamblers has been destroyed? Is that right?

A. That is all of my affairs, as far as the Bank—as far as the Currency Exchange is concerned, were burned, because I did not want to keep them any more, anyway. I was out of the business. There was nobody to see that I should keep them, and no reason I had to keep them. There was nobody to care whether I should keep them or not. If I had known, I would have done different.

924 Q. Do you read the newspapers right along—do you not, Mr. Brown?

A. I read some of the good news once in a while.

Q. Did you not know, before these records were burned, which you have described here to the Grand Jury, that William R. Skidmore had been indicted by a Federal Grand Jury?

A. He had no connection with my business, and I never knew him, and it was just as casual to me as it would be to a stranger in another town.

Q. O. L. Alexander, Mr. Skidmore's brother-in-law—

A. I do not know him. I never saw him in my life.

Q. He was then connected with the Horseshoe gambling house and the Dev-Lin for years?

A. I swear I would not know him if I saw him on the street.

Q. You were never inside—

A. No, sir.

Q. —any of these gambling houses?

A. No.

Mr. Plunkett: Q. You knew that the bookmakers and gamblers were under investigation, did you not?

A. I figured it had nothing to do with me.

Q. Did you not know it as common knowledge 925 throughout the newspapers, all summer?

A. I presume it was, yes. I did not pay so much attention. It did not interest me.

Q. You knew your clients, did you not?

A. What clients?

Q. Jack Sommers, Jimmy Hartigan, and the rest of them?

A. The only ones I ever knew—

Q. You knew they did run books?

A. I believed so.

Q. Did it ever occur to you then that your records of their business would be valuable?

A. I had no thought in mind at all of what was going to occur.

Mr. Campbell: Q. Well, you were a cashier of the Ogden National Bank; at that time did you say Mr. Bill Johnson, or did you say he had a checking account there?

A. A small account.

Q. What other business, besides this checking account, did Mr. Johnson transact through your bank, as far as you know?

A. None whatever—he opened it, as an accommodation to me, as far as I know.

Q. Did he get checks there?

926 A. I do not recall that he ever did.

Q. What about Jimmy Hartigan?

A. Jimmy Hartigan, at that time, did not do much. Practically, as I remember, one of the tellers cashed their checks, and there was nothing, except that he would say 'hello,' when he went by. I never waited on him—I never waited on any—

Q. During the time you were cashier of the Ogden National Bank, where was Hartigan working?

A. He was working on the Ogden Avenue gambling house.

Q. 4020 Ogden Avenue?

A. Yes, sir.

Q. 4020 Ogden Avenue?

A. Yes.

A Juror: Q. He was working over there?

A. I guess so; if he owned the place—or working over there, I do not know.

Q. You say he was working over there?

A. I would say he was there, I do not know.

Mr. Campbell: Q. Now—

A. I would not like to have that statement go into the record. I am not certain.

Q. It is already in, subject to such explanation as you may have made. That is the purpose of having these answers written down in this manner.

927 A. I do not wish you to think I am trying to evade, or trying to—you know, I am a little bit nervous—to tell you the truth.

Q. I do not think anything. I just ask questions.

A. I do not want you to feel that I am doing that. I have always lived a clean life, and I have never been arrested in my life, and have never been before a Jury like this in my life. I feel my conscience is clear.

Q. As a bank cashier, did you make a practice of going to the door of a furnace, and burning the records of the bank—did you ever do that as a cashier?

A. That was a different circumstance, sir. I was under no supervision in the Currency Exchange business. For one year it was practically my own business, to do as I chose. If I had known different, in that case—if I had known what was coming up, I would not have done it.

Q. Well, you were cashier at the Ogden National Bank, and at that time did you meet Jack Sommers?

A. No, sir, I did not know him then.

Q. You did not come in contact with him at all?

A. No.

Q. Did you meet Ed. Waite?

928 A. No, sir, never knew him.

Q. Being a cashier at the Ogden National Bank—when did you cease that occupation?

A. In September of 1931, when the Bank crashes were going on.

Q. At that time Hartigan was the only one of this group which you knew?

A. That is right.

Q. And Bill Johnson?

A. That is right.

Q. You did not know Andy Creighton?

A. No, sir.

Q. Or George Ferner?

A. No, sir.

Q. Or John Flanagan?

A. No, sir. I would not know Creighton, or any of those other fellows, if I met them on the street at that time.

Q. This accountant who made the final report for your Currency Exchange was C. F. Bagshaw & Company. Did he render a regular report to you, covering your Currency Exchange business?

A. Well, he came out there monthly, and went over my books.

929 Q. And he made a report?

A. That is right, earnings and so forth.

Q. And at the close of business he came out and made a final audit of the books?

A. That is right. I asked him to. That is all in there.

Q. Can you look at Grand Jury Exhibit 19, and tell me the date that this final audit was rendered to you on that Exhibit—do the books show?

A. September 30, 1939.

Q. September 30, 1939?

A. Yes, sir.

Q. Where did Mr. Bagshaw deliver this report to you, Grand Jury Exhibit 19?

A. He sent it to me at my office.

Q. Where?

A. At the Lawrence Avenue Currency Exchange.

Q. Did he deliver this report to you on or about September 3, 1939, or a few days later?

A. I would say about the first of October.

Q. He delivered this to you?

A. He sent this by mail.

Q. About the first of October?

A. He sent it by mail. He had it done on that 930 day, in pencil figures, he put it all down in pencil figures, and he typed it out, and sent it over to me. I imagine that was the way that he did it.

Q. In making this report, Grand Jury Exhibit 19, did Mr. Bagshaw have access to the sheets which contained a list of the checks?

A. No, sir.

Q. That you cashed for the gamblers?

A. He never looked at that, I do not believe.

Q. But he had access to them?

A. Yes, sir.

Q. And he saw them?

A. Yes, sir.

Q. Before your Currency Exchange, the Lawrence Avenue Currency Exchange—

A. Yes, sir.

Q. Please wait until I have completed the question.—took over this gambling business—

A. Yes, sir.

Q. —did you know whether any other Currency Exchange was rendering a like service?

A. No, I did not, sir.

Q. Of these gambling enterprises?

A. No, sir, I did not.

931 Q. That you took this business away from another Currency Exchange—did you know that.

A. Mr. Hartigan brought that in to me—that was one of the inducements in opening my business, he would help me to get this business.

Q. You knew that the Albany Park Currency Exchange had been handling this business for years, before you took it over?

A. No, I did not know that at all. I did not even know the man that was in there.

932 Q. Did you not know that the Albany Park Currency Exchange was handling this business before you took it over?

A. I did not know it at that time, no, sir.

Q. When did you first become aware of that fact?

A. I became advised of that fact when I tried to open my business—it might have been one of the things that was brought up by the Currency Exchange Association, so that I could not get that business.

Q. Go ahead.

A. That is one of the things that he brought up

Q. By 'he,' who do you mean?

A. By this fellow that owns this Albany Park Currency Exchange.

Q. What is the name?

A. Marcus.

Q. Marcus?

A. Yes, sir.

Q. At that time was there some controversy between you and Mr. Marcus?

A. Nothing else but the fact when I tried to open up my business, there was this organization fighting me—he did not come out in the open about it—it was his organization that tried to stop me from opening my business.

933 Q. What was the basis of their complaint against you, as far as you know?

A. I do not know, other than what I have assumed, that the thing that you are talking about—about the checks that he did not cash, that came over to me.

Q. In other words, when you opened your currency exchange you diverted the business from the gamblers' end of it—it did not stay with Mr. Markus—is that it?

A. It might be the case. I do not know for sure.

Q. Mr. Markus became disgruntled?

A. I imagine that might be so.

Q. And caused you a little annoyance, we will say?

A. That is right.

Q. There was another currency exchange handling this business, on the same basis, before you opened the Lawrence Avenue Currency Exchange?

A. I could not say myself, because I do not know. I was not around there at the time.

Q. You discussed the matter of changing this business from one currency exchange to another, did you not?

A. You say 'discussed this matter' about changing this business from one currency exchange to another—no.

934 Q. Changing the business from Markus' currency to your currency exchange?

A. No, sir.

Q. Did you not discuss that with anyone?

A. No, sir.

Q. Did you not discuss that with Jim Hartigan?

A. No, sir. I did not know Markus at that time. I did not know there was a currency exchange, until a couple

of weeks later, to tell you the truth—never paid any attention to it.

Q. When you first approached Mr. Hartigan, I take it, it was your idea to open a currency exchange?

A. That is right.

Q. Just how did you happen to pick that out—how did you happen to talk that up with Mr. Hartigan?

A. When I first met him, as I said, downtown on State street, he asked me what I was doing, and I told him I was out of work, and had been out of work for a year. I said, 'I have tried to get a job in every place, being refused on account of my age, and the next best thing for me to do is to get into some kind of a business, and
935 see what kind of a business I could get into.'

I had seen the currency exchange business, and I said, 'There might be a big thing in it.'

I talked to him about it, and he seemed to be interested, and he said, 'Come out and see me, and I will talk it over with you.'

Q. Did he not indicate to you at that time that his organization was then using the services of a currency exchange?

A. He never mentioned anything to me about it.

Q. Did not say a word?

A. No, sir; the only thing, he told me to come back again, to come back a second time, and I convinced him. I said, 'That is a great thing, and it looks interesting to me, I think I can make some money out of it, maybe.' And he said, 'See what you can do, find a location, get started, and come back to me.'

A Juror: Q. What is Markus' full name?

A. I do not know his first name.

Q. Do you know his initials?

A. I could not recall. I only saw him once in my life.

Q. You would choose a location?

A. Yes, sir.

936 Q. For the exchange?

A. Yes. You see, I have lived in that neighborhood for many years.

Q. There was another exchange around the corner?

A. Because he was on a side street there, I did not know that he was there at the time.

Q. You did not know there was another one just around the corner?

A. I did not know, until a week later.

Q. How long had you lived in that district?

A. Well, I should say about fifteen—fifteen or twenty years.

Q. And you did not know?

A. He was out there during the time I was there. I was away, on the road, for four years, and during that time that he had his currency exchange—when I came up to look at Lawrence avenue, I did not know there was somebody around the corner, and no one ever said anything to me.

Q. Is it not unusual that you were starting up a business there, with another right next door? Or close by?

A. Well, the reason is, as I say, that I rented this 937 place, and I wanted to go through with it. I thought that maybe it was a good spot, and I think he was formerly in that spot; I think he was formerly located in there. But he was out of there two years before that. He was not in there for two years. I think—I thought maybe I might get some business on account of the vault, people coming in there, a lot of people that knew me.

Q. I see.

Mr. Plunkett: Q. Did not Mr. Hartigan know that the other man was around the corner from you?

A. He never spoke to me about it, because when I came around, came to him, he did not say that. We never discussed that. He said, 'Go ahead, get started, and if you get started, I will put money in with you.'

Q. You were never in the currency exchange around the corner?

A. Yes, I was in there, once, to talk to him, when we had an argument about getting into the business.

Q. That was after you opened?

A. Yes. Markus had moved out there, and he was around on a side street, and I thought we could 938 co-operate together.

Q. You had never been in there?

A. Never before; never knew Mr. Markus before, never.

Q. Mr. Hartigan knew him?

A. I could not say, sir. He never talked to me about it, but I did not ask him.

Q. Did Mr. Hartigan tell you that he had cashed a check there before you had started?

A. No, he did not say anything about it, except that

'I will throw you some business—I will throw you some business your way when you are started'.

A Juror: Q. Is Mr. Markus still in business there?

A. Yes, sir.

Q. And even the diminishing of the gambling business has not caused him to fail?

A. Evidently not. He has four or five places, and if you only make \$5.00 in each place each week—each day—he would make money. He would be making some money where I could not, where I had only one place. It is the volume of business that counts. It takes a large volume to make any money in that business.

939 Mr. Campbell: Q. Mr. Brown, after you closed on Lawrence avenue, after you closed the Lawrence Avenue Currency Exchange, did you thereafter meet Mr. William Goldstein?

A. No, no.

Q. Did you meet him, immediately or prior to or about the time you closed the Lawrence Avenue Currency Exchange?

A. No, sir. I called him on the telephone, and told him I was going out of business.

Q. That was before you closed?

A. About a week before, something like that.

Q. And that was the last week in September?

A. That is right.

Q. Just what date did you go out of business?

A. September 30.

Q. September 30?

A. I closed my business September 30. I was there a couple of weeks after that, for any calls to clean up my affairs.

Q. You stayed on the premises two weeks after September 30?

A. That is right.

Q. And that would carry you over to October 15?

940 A. That is right, approximately about that time. I do not know the exact date, at all.

Q. Did you continue your telephone service?

A. I took that for a week after my closing of the business.

Q. Did you pay any rent for that two weeks period?

A. No, I did not.

Q. You did not?

A. No.

Q. Why?

A. I just did not pay rent, that was all. I was out of business. I was not making any money.

Q. You were occupying the premises?

A. I was not doing any business, however. The place was empty, as far as I was concerned.

Q. As far as Mr. Goldstein was concerned, was he in the habit of allowing people to occupy the premises without paying rent?

A. I told him I was out of business on September 30, and I told him I was not going to pay rent.

Q. Did you tell him you were going to sit around a couple of weeks to close things up?

A. I do not know whether I mentioned it.

Q. He knew that you would be there for two weeks following the closing?

A. I do not know if he knew it. His girl was there, the girl who has charge of the vaults.

Q. Did Mr. Goldstein come out there?

A. No.

Q. Did he have a safety deposit box in that building?

A. I could not say so.

Q. Did you see him coming and going, to and from that building?

A. I will say he came to the building, and he talked to the girl in the vault and he talked to me.

Q. He was out there then, and he was there right along supervising the management of that building?

A. He did not come out there once in three months.

Q. During the period of time that you were in that place, how many times did you see Mr. Goldstein out there?

A. I would say maybe three times.

Q. What was he doing?

A. Nothing, just talking to the employees, saying 'Hello', and 'Goodbye'.

Q. He asked you how business was, did he?

A. Yes, sir.

942 Q. Now, that two weeks period in October, 1939, did you tell the Grand Jury that during that period you did not see Mr. Goldstein at all?

A. I am sure I did not.

Q. Did you not come down here in the loop, to his office, to see him?

A. Not that I can recollect.

Q. Well, now, think hard.

A. Yes, sir, I was down there.

Q. All right.

A. Once.

Q. Yes.

A. I came down to see if I could get a location.

Q. Tell us what you talked about, when you went down there?

A. I asked about a job, whether he could locate one for me.

Q. Go ahead, and state what you said to Mr. Goldstein and what he said to you on that occasion.

A. He just asked me why I could not go on with the business. I told him.

Q. What did you say to him?

A. I told him the business was not working out without the checks I was going to get from these boys.

943 Q. You told him that without the gambling business you could not survive?

A. Absolutely.

Q. What did he say to that?

A. He said, 'It is too bad'.

Q. Well, what else did he say?

A. Nothing else.

Q. Oh, yes.

A. I asked him if I could get located with a position through him.

Q. What else did he say about the gambling business?

A. Nothing else—nothing at all. We did not even talk about the gambling business.

Q. You told him without the gambling business you could not survive?

A. I told him that I could not get the checks—we were not getting the checks from Hartigan, and my expenses kept running in the red, every month.

Q. Just what did he say to that?

A. He said it was too bad.

Q. Did he indicate that business was gone?

A. He did not indicate anything to me. Never spoke anything about it.

Q. How did you know that business was gone?

944 A. I was told there would not be any more checks.

Q. Who told you that?

A. Mr. Hartigan.

Q. And you relayed that information to Mr. Goldstein?

A. I did not say anything to him about it.

Q. You just said you did?

A. I mean the general line of conversation. I said my business was thinning down. I would not be able to keep that up.

Q. Why did you go to Mr. Goldstein with that hard luck story?

A. I did not go to Mr. Goldstein with the hard luck story. I asked him for a job, if he could get me located. That is what I went there for.

Q. Why should Mr. Goldstein take care of getting you a job?

A. After all—

Q. Why does he have that obligation to you?

A. He was not obligated to me.

945 Q. Why did you go to him, and appeal to him to get employment?

A. After all, I did not know anything about the man. I thought he was interested in some business where I could locate. After all a man has got to get a job.

Q. You did go to Mr. Goldstein after you closed the currency exchange?

A. I was there once, I recollect, right afterward.

Q. Was that before you burned the records, or after?

A. It was after.

Q. How long after?

A. Well, I was in the office for about two weeks, as I say. After that time I was free to go wherever I could.

Q. Did you burn the records after September 30, 1939? Or before?

A. After September 30.

Q. How long after?

A. The next three or four days—I would say within the week.

Q. Some time in the first week of October you burned the records?

946 A. That is right.

Q. How long was it after September 30, 1939, until you went into Mr. Goldstein's office?

A. I just do not remember the time, to tell you the truth. I was downtown, looking for a job, and I stopped into his office.

Q. That was right during the first week in October you stopped in his office?

A. No, it **was later**.

Q. Was it before the 15th—was it before?

A. It may have been after the 15th, and before the 30th of the month, because I filled a lot of applications out downtown for positions. I do not know what date I was in there. I do not know what date, I could not say. I just would not know.

Q. You had a telephone out there in the currency exchange premises around the 10th of October?

A. I think it was around the 6th of October I cut it off.

Q. Did you go there regularly between the 30th of September and the 15th of October?

A. Yes.

Q. To the currency exchange?

A. Yes sir.

947 Q. To receive your mail?

A. I stayed there all day, and I waited for the cancelled money orders to come in, so I could check them off, and the bank was refunding the cancelled money orders. I was waiting to make the list for the bank, of the outstanding money orders, that we still had to pay—that still had to be paid.

Q. You received telephone calls over that period, many telephone calls?

A. Up to the time I disconnected the service.

Q. Why did you not telephone to Mr. Goldstein instead of going to his office?

A. I was downtown looking for a job, and stepped into his office.

Q. Was there something that you had to discuss personally, that you did not care to discuss over the telephone?

A. Nothing at all, sir. I wouldn't swear, I would not have discussed anything—he would not have discussed anything with me, anyway.

Mr. Miller: Q. I will show you, Mr. Brown, Grand Jury Exhibit 18, which you have described as what?

A. As a Money Order Register.

Q. Money Order Register?

948 A. Yes, sir.

Q. And this Grand Jury Exhibit 18, being the Money Register—the Money Order Register—shows a record of every money order that was issued by the currency exchange from the time it started business?

A. Yes, sir.

Q. Until you ceased?

A. That is right.

Q. And you started, according to this—you issued the first check on July 22, 1938. Is that right?

A. Yes, sir, according to that, yes, sir.

Q. Did you make any entries in this book?

A. Yes, sir.

Q. Do you recognize the writing on page 1 as yours?

A. Well, I do not think—those records are not mine. I think the girl wrote these.

Q. What girl?

A. There may be some here—yes, I have written some of them.

Q. You have written some of them?

A. Yes.

Q. Who else wrote in this book?

A. Just myself, and the young lady was writing, Miss Downey.

949 Q. All the time it was kept, you and Miss Downey were the only persons who made any records in this book?

A. That is right.

Q. No one else had access to this book at all?

A. No.

Mr. Plunkett: Q. Did you have any other employees?

A. No, sir.

Mr. Miller: Q. Do you know Miss Downey's handwriting when you see it?

A. This is her handwriting.

Q. This is one that appears on page 1?

A. Yes.

Q. Under date of September 12, and date of September 16?

A. That is right. It may be part of my handwriting. I might have entered some of the days in there, from the requisitions, and she may have, too.

Mr. Plunkett: Q. Will you show us any that are in your handwriting?

A. There are none on that page. I do not see any on that page.

Q. That is all in Bernice Downey's handwriting?

A. There are some of mine in there.

950 Mr. Miller: Q. You are now referring to the date of September 12 and the date of September 16, 1938?

A. Yes, sir. All of these are her handwriting.

Q. And on that page it is all in Bernice Downey's handwriting?

A. Yes, sir.

Q. And take the page in front of that, covering the period from September 2 to September 12—do you see any of your handwriting on that page?

A. Yes, sir.

Q. Under what dates?

A. Here is one. Here is one.

Q. Which one is that?

A. That is it.

Q. September 8th?

A. Terman Stores Corporation. And here is one for Lady Lynn.

Q. Lady Lynn.

A. That is right.

Q. Are there any others in handwriting on there, that you recognize?

A. This is Bills Realty. This is Lester Eddington. This is National Service.

951 Mr. Miller: Q. That is referring to September 10, that group of items?

A. Yes.

Q. Whose handwriting is that?

A. That is hers.

Q. That is Miss Downey's handwriting, is that right?

A. Yes.

Q. The last item on the page is dated September 12. Whose handwriting is that?

A. That is hers.

Q. That is her handwriting, and this is her handwriting?

A. That is right.

Q. You are sure of that?

A. This is my handwriting, right there. My sister-in-law's check.

Mr. Plunkett: Q. Did you say the other was her handwriting, the Terman Stores Corporation?

A. Yes, sir. This is my handwriting, yes. You can tell, on the different lines. She had a better handwriting than mine. There is one. There were only two of us that wrote in that book.

Mr. Miller: Q. Apparently on some days either
952 you or Miss Downey decided to print instead of writing, is that right?

A. She printed those.

Q. Is all the printing in the book done by Miss Downey?

A. I may have done some. A lot of times I print instead of writing. My handwriting is 'no good', so I print sometimes.

Q. And this is Grand Jury Exhibit 17, and this box contains a 11 of your cancelled checks?

A. Except a few that might be outstanding yet.

Q. And this is the register of the checks, Grand Jury Exhibit 18?

A. Yes, sir. Here is one that is outstanding.

Q. Except those checks that were outstanding at the close of your business—

A. That is right.

Q. Is that right?

A. That is right. They are over here, some place.

Q. What was your practice with regard to selling these money orders? Was there any regulation in connection with it?

A. None whatever.

953 Q. Did you always put down the name of the person who purchased the money order?

A. Yes, sir.

Q. Did you put down the name that the person gave you, or did you just ask them who they were, and put that down?

A. Many times they would write out their own requisitions, and at times they did not, and we would write it for them.

Q. Did you recognize them?

A. Any customer coming to the window.

Q. For each one of these checks issued there are requisitions, is that right?

A. Yes, sir.

Q. That is a form that is filled in by the purchaser of the check?

A. That is right.

Q. In all of those?

A. Yes.

Q. Where are they?

A. I destroyed those also.

Q. You burned those?

A. Yes, sir.

Q. With your other records?

954 A. Yes, because they got a stub on every check issued, and my cancelled voucher was paid. That was

all that was necessary to show that the stub was paid. That is the reason I am holding on to them.

Q. Under those circumstances, those requisitions were in the handwriting of the person who purchased the money order, is that right?

A. Not necessarily. As I say, we made them out, very often, more often than the customer would make them out, and that was a service that we would give to them.

Q. Was it a practice for you to inquire as to who the purchaser was, or did you just follow the information contained on the requisition?

A. We do have to ask them who they want it payable to.

Q. I am not referring to who it is payable to, but did you ask any customer who they were, or did follow the information?

A. The information that was on the requisition.

Q. The information on the requisition, with regard to himself?

A. That is right.

955 - Q. Did you know Mr. Johnson?

A. Yes, sir.

Q. That was Mr. William R. Johnson?

A. Yes, sir.

Q. Was he ever in your currency exchange?

A. No, sir, not that I recollect.

Q. He was not in there?

A. I have never seen him there. I have not seen him in many years.

Q. Have you ever had any business transactions with him?

A. No, sir, none whatever.

Q. Was it a practice, or was it ever a practice for you to make entries in this book in pencil first, and then subsequently make an entry in ink?

A. It might have been done.

Q. I am asking you if it was?

A. Well, I do not think so.

Q. Do you recall ever doing that?

A. I cannot recall ever doing that.

Q. Did Miss Downey ever make entries there, that way?

A. She may have done so, and went over them in 956 ink, and rubbed out the pencil.

Q. If such entries were made, why were they made in pencil?

A. Merely to save a little time, or for some reason or other, for no real reason.

Q. Now, do you think you can write any faster with a pencil than you can with a pen and ink?

A. Yes, you can.

Q. I do not believe it makes any difference. I have seen court reporters using pens—there is one using one now.

A. Anyway, I would not know.

Q. Would that be your only reason?

A. No, there was no reason at all. That is really the only reason for writing in ink, if you will look through there—I do not know. You can see where the pencils are, where you can tell whether that is rubbed out or not. I do not think there was a pencil there. I just could not say."

Mr. Hurley: A question by Mr. Campbell, on Page 575 (Reading):

"Q. Did Mr. William R. Johnson ever purchase any money orders from you?

A. No, sir—never once.

957 Q. Are you positive of that?

A. I am positive of that.

Q. Did he ever have any transactions at all with the currency exchange, so far as you know?

A. Never.

Q. Do you know whether he owns the building where that exchange was located?

A. No. I never knew he owned the building, except when they came for me to inquire about—to see Mr. William Goldstein.

Q. When did you first know that Mr. Johnson owned that building?

A. I never knew that he owned that building.

Q. You do not even know it now?

A. No, sir.

Q. You knew that Mr. Goldstein was managing the building, did you not?

A. I did not know that, until the girl at the office—at the safety deposit vault—told me to see him.

Q. After you saw Mr. Goldstein, you knew that he was managing the building?

A. I was renting from him at that time.

Q. Did you have a written lease?

A. No, sir, a month-to-month lease.

Q. Did Mr. Goldstein indicate whether he was the
958 owner, or whether he was merely the manager?

A. He did not indicate anything.

Q. To whom did you pay your rent?

A. To the girl at the vaults.

Q. I beg your pardon?

A. To the young lady at the vaults.

Q. Did you, in fact, pay any rent?

A. I swear I did.

Q. Would it surprise you to know that the title to that
building stands in the name of William R. Johnson?

A. It would surprise me very much. I would not know
it, sir.

Q. You could not account for the fact that you did not
know it prior to this time?

A. Absolutely, I will swear to the truth of that state-
ment."

The Court: We will recess at this time until 10:00
o'clock Monday morning, ladies and gentlemen.

(Whereupon an adjournment was taken until 10:00
o'clock A. M., Monday, September 23rd, 1940.)

959 Q. You could not account for the fact that you did
not know it prior to this time?

A. Absolutely. I will swear to the truth of that state-
ment.

960 Q. I see.

A Juror: Did Mr. Goldstein give you a rent receipt
every month—every month?

A. Every month?

Q. Yes.

A. The young lady.

Q. How was it signed?

A. Helen Koppe.

Q. Was it signed, agent, or anything of that kind?

A. It was signed Albany Park Safety Deposit Box
Company and Helen Koppe, Custodian.

Q. Where are those receipts now?

A. They have been destroyed. I have destroyed those
things, because they would not have no value to me.

Mr. Plunkett: Q. If you were sued for back due rent,
they would have a value.

A. I have always paid the rent.

Q. You could not prove it.

A. I would not say—

Q. Could you prove that you had paid all your rent on that building?

A. No, other than the girl, would be the only way to do it.

Q. You would have to rely on the girl's record?

961 A. Her cash book would show.

Q. You would rely on the girl's record?

A. Yes, sir.

Q. You do know that the best evidence is a receipt?

A. No.

Q. But you put that into the furnace?

A. I put everything in, as I say, there was no use in carrying it around with me.

Q. And you destroyed every one of your receipts?

A. I have destroyed any kind of a receipt I have ever had, because I have paid everybody in full. I did not owe anybody anything.

A Juror: Q. Who is Bernice Downey; do you know who she is?

A. She is a niece of Jimmy Hartigan.

Q. She is a niece?

A. Yes, sir.

Q. Is her father Sergeant Downey of the Chicago Police Department?

A. I could not say. I have never met her folks.

Q. What would you do if you were forced to make a second payment on some building you had already paid, and destroyed the receipt?

A. Well, I do not make a second payment."

Mr. Thompson: Read a little louder.

962 Mr. Hurley: (Reading:)

"Q. Suppose they had failed to credit your account with this money?

A. The safe deposit vaults are in the same building, and the girl was right next to me, and all I had to do was give her the money. I did not have to go out of the building to pay my rent.

Q. After all, there is no one that is infallible, and it is possible she may have failed to record that on her record, and she may think you still owe her a month's rent, and if she approached you on that matter, what would you say?

A. I would tell her it was paid.

Q. What good would that do you, how would you prove that?

A. People are not that way.

Q. If they were not that way, we would not be here.

A. That is right.

Q. Did you have a lease on that place?

A. No, sir."

The Court: What page are you on?

Mr. Hurley: 580.

The Court: Go ahead.

963 Mr. Hurley: (Reading:)

"Q. You were renting from month to month?

A. Yes, sir.

Mr. Campbell: Q. What did you do with your office machines when you closed the business?

A. They were still there.

Q. Where?

A. At the vault, at the bank building.

Q. What office machines did you have?

A. An adding machine, a typewriter, and I had a Pro-tectograph.

Q. You left that in the building?

A. Yes.

Q. Where, in the building?

A. In the bank.

Q. Did you leave them in the same office?

A. I let the safe deposit office use them, until I can dispose of them.

Q. Do you own them?

A. Yes, sir.

Q. When did you buy them?

A. First, when I went in business—as we went along in business.

Q. You bought them after you started your business?

A. No, we got the typewriter maybe a week later,
964 and I had an adding machine when I opened up.

Q. Where did you buy the adding machine?

A. From the Wales.

Q. New?

A. Yes, sir.

Q. What did you pay for it?

A. \$130.

Q. Where did you get the typewriter?

A. From the Underwood.

Q. New?

A. \$75

Q. That was a second-hand machine? You had furniture and fixtures?

A. That was my furniture and fixtures there.

Q. Where did you get your furniture and fixtures?

A. That is my typewriter, my adding machine, my Protectograph, and everything like that.

Q. Did you have a desk?

A. All the desks were in there. That was the reason we rented the place.

Q. In other words, this was a furnished office?

A. There was a desk—there were desks in the old bank, when the old bank was there, and the bank had been there for 39 years.

Q. What new equipment did you buy when you opened up, in order to operate as a currency exchange?

A. A typewriter, adding machine, and a Protectograph.

965 Q. How did you pay your telephone bills?

A. Whenever they were billed to me.

Q. By cash?

A. By check.

Q. Money order?

A. Money order.

Q. Those money orders should be in Grand Jury Exhibit 17, should they not?

A. Yes, sir.

Mr. Miller: Mark this 17-1502.

(Document so marked.)

A Juror: Could you explain the two handwritings on that check, on Mr. Johnson?

Mr. Plunkett: If you will excuse me, I am going to get into that right now.

Q. Mr. Brown, I will hand you Grand Jury Exhibit 17-563,—

A. Yes.

Q. Which is the exhibit you were looking at before, a check made out for Mr. Johnson.

A. Yes, sir.

Q. And signed by Bernice F. Downey on October 13, 1939.

A. Yes.

Q. And I will ask you to state who wrote the words, 'Mr. William Johnson' on the top of the check?

966 A. That is her own handwriting.

Q. That is Miss Downey's handwriting?

A. It evidently is, because nobody else could have written it. It is not my handwriting.

Q. It is not your handwriting?

A. No.

Q. Who wrote 'H. C. Evans & Company', on that check?

A. She evidently did.

Q. Do you say they are the same handwriting?

A. Yes.

Q. And the same handwriting as Bernice F. Downey?

A. Well, I could not say anyone else. It is not mine, and she is the only one, she has been there with me—who else could I say would do it?

Q. You recognize her handwriting, do you not?

A. Yes, sir.

Q. Do you recognize that as her handwriting?

A. Yes, sir.

Q. The words, 'Mr. William Johnson', and 'H. C. Evans & Company'?

A. Yes, sir.

Q. I want to show you Grand Jury Exhibit 17-1502, and ask you to describe what that is.

A. That is a check purchased by William R. Johnson, payable to N. H. Brune & Company, for \$36.20, by 967 Bernice F. Downey.

Q. Will you just take a fountain pen, Mr. Brown, and write on that sheet paper, 'William R. Johnson'?

A. My fountain pen is out of ink.

Q. Here is one you may use.

A. (Witness writes on sheet of paper.)

Q. Spell out 'William', please. Now, write that again, several times.

A. I have not written it for a long time. Is that enough?

Q. Thank you.

A. You are welcome.

Mr. Plunkett: Someone want to see these?

Q. Referring to that second check, which you just looked at, made out for William R. Johnson, do you recognize that name?

A. 'Bruns'?

Q. Yes.

A. I do not know who they are.

Q. Do you recognize the name 'William R. Johnson'?

A. Yes.

Q. Do you know who purchased that check you were just looking at?

A. No, I do not.

Q. You are still positive he was never in your currency exchange?

968 A. I would swear to that.

Q. Was there anyone that you know of, that bought checks for him, anyone from your currency exchange?

A. Do you mean Mr. Hartigan?

Q. Mr. Hartigan.

A. Yes.

Q. Why would Mr. Hartigan do it?

A. He would come in often. He might have sent somebody in with money, to purchase a money order for that purpose.

Q. Why would Mr. Hartigan purchase a money order for Mr. Johnson any more than I would?

A. I do not know.

Q. Why do you say it was Hartigan?

A. I mention Hartigan, because it may have been somebody that knows him.

Q. Why did you say Hartigan every time we mention Johnson, and why did you talk about Dr. Johnson?

A. The reason I mentioned Dr. Johnson is because Dr. Johnson purchase a lot of money orders, there.

Q. A lot of them?

A. Yes.

Q. A great many?

A. Quite a few.

Q. You are sure of that?

A. Yes, sir.

969 Q. Why did you say it must have been Mr. Hartigan? Do you know of any connection between Mr. Hartigan and Mr. Johnson?

A. No, sir.

Q. None whatever?

A. No.

Q. Why did you select the name of Hartigan, to say that he did that?

A. He must know him, because all gamblers know each other.

Q. That is the only reason you have for saying that?

A. Absolutely. No connection with them. I do not know anything about them. Anyone can come in and purchase a money order.

Q. Will you identify in this book some of your handwriting, please? This is Grand Jury Exhibit 18. Can you find some of your handwriting there?

A. Yes.

Q. These items under date of October 8, purchased at the Lawrence Avenue Currency Exchange?

A. Yes, to pay my own bills.

Q. John M. Smyth Company, Commonwealth Edison Company, People Gas and the Bureau of Water.

A. Not the John M. Smyth. Commonwealth Edison, Peoples Gas, Bureau of Water. That is in there, up there.

Mr. Campbell: Q. Do you pay the water bill there?

A. No. We collected payments for the City of Chicago, the Bureau of Water, and I would make it out at night—the checks for all of the bills, and send it into them.

Mr. Plunkett: Q. Can you find in that book any records of purchases by Dr. Johnson, that you have referred to?

A. The only way here, is I can look through. There is two of them—Marshall Field & Company—and down the line you will find some more.

Q. Did you make that out?

A. No, she wrote that. I wrote this one. I wrote that one check.

Q. Does her handwriting change a good deal?

A. Apparently. It looks that way. It looks the same to me.

Q. Will you see if you can find one for Dr. Johnson that you, yourself, made out?

A Juror: Could I ask Mr. Brown a question?

Mr. Plunkett: Yes, indeed.

A Juror: Q. Mr. Brown, could you explain, on that one check why the ink is different on that?

A. No, I could not—not any more than you could.

Q. Is it not customary to write out the entire check at the same time?

A. It may have been possible something was omitted, and then they put that in it.

Q. In making out money orders that is an important thing?

A. Some times you can make a mistake, and at times when you issue the money order, you forget the requisition, and then we would have to wait until the thing came back, and then you would probably show the different color of ink.

Mr. Plunkett: That has nothing to do with the question

asked you here. The Juror wants to know why, in making out a money order, and signing it in one kind of pen and ink, you would write in the name in another kind of pen and ink, you write the name in there—is not that done in one operation?

A. Yes.

Q. Do you ever make money orders half way and leave them that way?

A. No, sir.

972 Q. Did anybody else have copies of your money orders that they could make up, and bring them over, and have them signed?

A. No, I would say not.

A Juror: Q. Would there be any possibility of this money order being made out in blank, and the individual name added—or the individual adding his own name?

A. No, sir.

Q. Because on the original tally sheet it only shows as Mr. Johnson.

A. I just could not recall that.

The Foreman: Do customers ever write their own names on those checks.

A. Never.

Mr. Plunkett: Q. I note that on some of these checks that the name of the Central National Bank label appears to be pasted on there—

A. Yes.

Q. What is underneath that?

A. North Shore National.

Q. North Shore National?

A. North Shore National, that is right.

Q. That was printed on this check?

973 A. Yes, North Shore National.

Q. And then, the North Shore National is covered, and this label is pasted over, of the Central National Bank?

A. That is right. It was the North Shore National underneath there.

Q. You had those all made up, and you had the North Shore National put on?

A. Yes. I was thinking that I was going to go along with them, all the way through.

Mr. Campbell: Q. Who ran the Crawford Club?

A. I could not say, sir.

Q. It was a customer of your currency exchange, was it not?

A. It may have brought items in, called the Crawford Club—something like that—I do not know.

Q. They bought money orders?

A. Yes, they may have come in, from Jack Sommers—or maybe one of the men would come in, and pay their bills.

Q. Was the Crawford Club one of the gambling clubs?

A. I do not know. I presume it might have been—
974 maybe called the Crawford Club.

Q. Was it one of Hartigan's places?

A. It might have been one of Jack Sommers' places.

Q. Was it?

A. It might have been. I do not know. You see, whenever they come in and buy those checks—Jack Sommers may have purchased a lot of it. This is to the Collector of Revenue, or you may have sent the Social Security man in there, and we put in that name, because he bought the Social Security.

Q. The Crawford Club was some of the business that Mr. Hartigan directed to your exchange?

A. I could not say. I am not certain. I do not know.

Q. Did the Crawford Club buy money orders at the currency exchange?

A. Yes, sir.

Q. Here are two of them?

A. That is right.

Q. You do not know who they are?

A. These men would come in, and purchase those.

Q. What men?

A. Mr. Hartigan, and Mr. Downey—one of the
975 Downey's, whenever they would come in—or when they got the Government tax, they would come in and buy this—his man would. Or they would make that for the Social Security tax, and then I would put that name on.

Q. Have you ever heard of the 4011 Club?

A. No, sir, I have not.

Q. Do you know the 4011 Club—is not that right nearby?

A. 4011 what?

Q. 4011 Club—have you ever heard of it?

A. No, sir, I have not. I do not know even where it is at. You say 4011, I do not know what street, or what other place.

Q. You issued a check for that club?

A. Sure. You remember there are a lot of them, and all of them gave me all of their business.

Q. You do not know who it is, however?

A. No, I do not. I imagine they would send in somebody to buy.

A Juror: Q. Mr. Brown, is it legal to pay Social Security tax with a check of that sort? Is it not the 976 policy that you have to pay that with a Government money order?

A. Well, the Government takes the money.

Q. I have heard of people actually offering cash at the Post Office, on their Social Security tax and being refused.

Q. Well, they would not refuse it here. That all went through. You can look at that.

Q. Does not the same law govern the entire United States? I think this is a fact.

A. I do not believe there is such a law there. They can refuse it, but there is no such law.

Q. The Post Office at Aurora, Illinois, will refuse a cashier's check or a partial check, or anything else.

A. I do not know.

Mr. Miller: Q. Was this a check that was to be used for the payment of the Social Security tax?

A. I do not know, sir.

Q. Do you know John Engstler?

A. I do not recall that name. There are a lot of names, like men that come in and buy, and I never know the man's name.

Q. You do not have any objection to us asking you if you know these people?

977 A. No.

Mr. Plunkett: Q. Your partner is Mr. Hartigan?

A. Yes.

Q. You are a partner with Mr. Hartigan?

A. Mr. Hartigan gave me the money, and he put that in Miss Downey's name.

Q. She was in authority there?

A. It was his money.

Q. He would have the right to take one of these money orders?

A. No, sir.

Q. In blank?

A. No, I never gave them to anyone. I would not do that. I was not responsible for that.

Q. His writing does not appear on any one of these?

A. Not on one—I defy anybody to find—anybody else in there, except myself—Miss Downey and myself.

Q. You are still unable—strike that out.

Mr. Miller: Q. If that is true, how about this check which we have just shown ou?

A. I might say—

Q. Was that your statement, right now, it must be either yourself or Miss Downey's?

978 A. You will have to have a signature expert, then—I do not know. You cannot prove it by me.

A Juror: Q. Do you know if Miss Downey ever took any of those money orders, when Mr. Hartigan was in the office—if he was in the office—if Mr. Hartigan put the names in them?

A. No, sir, never.

Q. You do not know of that?

A. No, sir.

Q. Is it possible she could have done it, and you do not know that she did it?

A. It could be possible, but I am almost certain it never has been done.

Mr. Plunkett: Q. The reason you suggested Mr. Hartigan had something to do with the checks of Mr. Johnson, is because you knew that Mr. Hartigan was a lieutenant of Mr. Johnson?

A. I could not say he is a lieutenant of anybody. I know Mr. Hartigan, and I know him for many years—I know him a good many years. That is how I got into this business.

Q. Is it not the common fact that he worked for Mr. Johnson?

A. I do not know.

979 Q. Have you heard it so said?

A. No.

Q. Do you know it to be a fact?

A. No, I do not know it to be a fact.

Q. What has Mr. Hartigan told you about his business?

A. Not a thing. We did not speak about that.

Q. You are not his partner in this enterprise?

A. I am a partner with him in the Lawrence avenue Currency Exchange. And that is all.

Q. Did he tell you you would get his business?

A. Yes, sure.

Q. Did he tell you it was his business?

A. Yes, sure.

A Juror: Q. If it was not Miss Downey's writing on this check, then it must have been yours?

A. I have looked at it—but I did not write it, I am sure.

Q. You said no one else besides yourself and Miss Downey wrote on these checks?

A. That is right.

Q. Then, if it is not your writing it must have been hers?

A. It would have to be either one of the two, that is right.

980 Mr. Plunkett: Q. What did you do with the profits from this enterprise, Mr. Brown?

A. We divided it. I took out my money, and I gave her what I thought she was entitled to, I took a little more, because I thought that being in this business that I had all of the headaches.

Q. That was your share?

A. I think that one time when we were in the office, we made a little profit from it, and I think I stated before it was about \$2,400, for the time we were in business.

Q. What was your percentage of the profit?

A. I would say about two-thirds.

Q. And you say that your division in that enterprise amounted to \$2,400?

A. About that, approximately.

Mr. Campbell: Q. Did you draw a straight salary?

A. No, she drew \$20 a week, and I drew \$35 a week.

Q. And you say that was because of her not knowing anything about the business?

A. After all, it was up to me to conduct that business.

Q. She was on a salary from the beginning of the enterprise?

981 A. No, neither of us took any money in the business, because we tried to build it up—to build up our capital in case we had losses, so that we would not be caught short.

Q. How long was it before you began taking a salary out of the business?

A. I do not know—maybe about six months.

Q. So, you went along for six months, without either drawing a salary?

A. That is right.

Q. And then, you drew \$35 a week, or a month?

A. \$35 a week, and she took \$20 as a salary.

A Juror: Q. Was the profit of \$2,400 over and above the salary—or was the salary included?

A. The \$2,400 included all of it, the only difference was

when we closed up, I drew the—I tried to proportion the salaries which each took. In other words, she got her salary at the end.

Mr. Plunkett: Q. Did you give back to Mr. Hartigan his money that he had invested or so much of it as was left?

A. Miss Downey took the money and gave it to him.

Q. You did not give it to him?

A. I did not, I did not do it personally. She took 982 it, and she personally gave it to him.

Q. How much was left when you divided the cash?

A. Well, he did not care for any profit he said, we should keep it, because we only made \$293 all the time we were in business outside of our salary.

Q. How much was left at the time you broke up the business?

A. Do you mean the total?

Q. Yes, how much did you have to divide up?

A. About \$5,900, or \$5,800—something like that. I just do not remember. I think I got \$2,900, or something like that, and she got around \$2,600, but she did not get \$2,600. I got \$300 out of that. I got about \$3,200.

Q. What did you do with it?

A. I have got it.

Q. In the bank?

A. Is not that a personal affair?

Q. Yes. Where is it?

A. Must I answer anything like that?

Q. Yes, you must.

A. That is my personal affairs. I have that right.

Q. Do you want to refuse to answer that question?

A. I think that is a constitutional question—is it 983 not, Mr. Campbell?

Mr. Campbell: Q. Do you claim your constitutional rights, on the ground that the answer to that question may tend to incriminate you?

A. I have got the money, if that is what you want to know—I can say that.

Q. Then you may answer.

A. I have it.

Q. Where?

A. At home, or other places.

Q. Where do you have that money? You have to answer these questions, Mr. Brown.

Mr. Plunkett: Q. Unless it will incriminate you.

A. Is not that personal?

Mr. Campbell: Anything is personal.

Mr. Plunkett: All of this is personal—all of these questions have been personal.

A. I mean, what money I have, and everything?

Q. The money that you have just stated came from this business, which is under investigation. We want to know where it is.

A. I have paid a lot of debts, and I have some of the money at home.

Q. Do you have that in a bank?

984 A. No, sir.

Q. Did you put any of it in a bank?

A. No, sir.

Q. Is it in a safe deposit box?

A. Not much of it left.

Q. Did you put any of it in a safe deposit box?

A. No, sir.

Mr. Miller: Q. How much capital did you originally invest in this business, Mr. Brown?

A. I figure I put in about \$2,600.

Q. Do you know—or did you keep any record of it?

A. The books show it, right there. I can give it to you there. I am not carrying it around with me.

Q. What was your original agreement with regard to the division of the profit, if any?

A. Well, at first, we thought we would split evenly, and then afterward, after I talked it over with Mr. Hartigan, I thought I ought to have more than she had.

Q. Was that because of you experience?

A. (No answer.)

Q. Is that why you ultimately, in the final division of the profits get 66 and a fraction per cent, as against Ber-
985 nice getting 33 and a fraction?

A. Yes, sir.

Q. Does that represent the investment that was originally made, the same proportion?

A. It represents the capital, plus the salaries, divided proportionately 66 and 33 per cent, and that would make up that difference, plus whatever profit was left over, after we divided the money. In other words, say I would have \$300 left over, as real profit from the business, outside of our salaries, I took that, plus my machinery and fixtures.

A Juror: Q. How much salary did you receive?

A. \$35 a week.

Mr. Miller: Q. Have you seen Grand Jury Exhibit 19?

A. Yes, sir.

Q. Tell me what that is.

A. That is the auditor's report of our business, earnings, expenses, from the time we started, until we closed out.

Q. Who made the report?

A. C. F. Bagshaw.

Q. What individual in the employ of C. F. Bagshaw examined the books?

A. Mr. Bagshaw himself?

986 Q. All of the information contained in this report was taken from the books, is that correct?

A. That is correct, exactly.

Q. And the original books from which this information was obtained have been burned—is that also correct?

A. That is correct.

Q. Directing your attention again, to October 13, 1938, and to check No. 1563, in Grand Jury Exhibit 17—were you present in the currency exchange that day?

A. What date was that?

Q. October 13, 1938.

A. I believe I was.

Q. Do you know whether you were there or not?

A. Well, I am sure. There may have been some days when I was away, ill, something like that, I cannot recall.

Q. Were you there on October 13, do you know?

A. I do not know. I could not say.

Q. I show you check numbered 1562, drawn on October 13, 1938, and ask you to describe that, and to tell me in whose handwriting that check is.

A. That is my handwriting.

987 Q. Describe that, please.

A. That is check payable to J. H. Cooper, purchased by H. E. Osterberg for \$12.07.

Q. That is in your handwriting?

A. Yes, sir.

Q. You have previously described check 1563, as being the handwriting of—

A. Miss Downey.

Q. Miss Downey, is that right?

A. That is right.

Q. I show checks 1564, 1564, 1566, 1567, and 1568—all

of which are dated October 13, 1938, and ask you to state in whose handwriting the checks are.

A. This handwriting is mine. This is one—well, these were all made by me.

Q. Can you explain that?

A. Yes, surely.

Q. How was check 1563, in the middle of these others, written by Bernice Downey?

A. Oh, we had two windows and we both worked, one at each window, and when we got busy—

Q. Were you working on the same group of checks, or did you have separate checks for the separate windows?

988 A. Sometimes she would issue a check, and she would call for a bunch, and then we would use them consecutively, and then, I would take a check. I may have issued one check, and she may have issued one check at the same time. There might be a skip in the number, too.

Q. It did not occur to you that Mr. Johnson might have come in, and on that day you had asked Bernice Downey to write the check, did it?

No, sir.

M. Plunkett: Q. Did I understand you to say, Mr. With- ss, that you did not know Mr. Wait?

A. Who?

Q. Ed Wait?

A. No, sir, I do not know him, sir.

Q. You have no idea who he is?

A. No, sir.

Q. Can you tell us the circumstances under which you drew up that check, No. 1312, dated September 17, 1938?

A. Somebody may have come in and purchased it.

Q. Have you no recollection of it?

A. No, sir.

Q. Do you know that Mr. E. H. Wait runs the Bon
989 Air Country Club?

A. No. You know, they sometimes come in there, and I saw his name on the bill.

Q. When did you write that check—did you write it in the book at the same time?

A. Not necessarily.

Q. When did you do it?

A. Maybe at the end of the day.

Q. Just hold that check a minute. Directing your attention to your record of checks drawn under date of Sep-

tember 17, the record of that particular check that I have just asked you about—

A. Yes, sir.

Q. And I find under date of September 17, Public Service Company of Northern Illinois, E. H. Wait—do you know what Lincoln T. means?

A. Probably Lincoln Tavern.

Q. Why was that written on there?

A. That is probably the way the bill was headed—the electric bill, and they brought in that electric bill, to make out the money order. That is how those things come in.

Q. Was E. H. Wait running the Lincoln Tavern?

A. I could not say, sir.

990 Q. You do not know?

A. I have never been around, to find out. The people bring these things in, and we would issue them for whichever way they tell us to.

Q. But you have no record now of the request for this check?

A. No, sir.

Q. Do you know Mr. William P. Kelly?

A. Yes, sir.

Q. Do you remember selling him checks?

A. Yes, he sent in, to buy checks to pay the electric bills, and they give us the bills, whatever they have to pay.

Mr. Plunkett: That is all, right now.

Mr. Campbell: Mr. Brown—

A. Yes, sir.

Q. —you were cautioned that all of this which has transpired here is in secret, and is not to be divulged?

A. Yes.

Mr. Campbell: You will be excused until 10:15 tomorrow morning, at which time you will please reappear.

The Witness: You bet.

991 Mr. Campbell: For further examination.

The Witness: Yes, sir.

Mr. Campbell: That is all at this time.

(Witness excused.)"

Mr. Thompson: Now, if the Court please, having heard this document read, I move to strike all reference of any character to Mr. William R. Johnson as being hearsay and having no materiality to any—well, as being hearsay, that is the ground.

The Court: Motion denied.

JESSE G. ROBERTS, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Hurley.

My name is Jesse G. Roberts. I live at Park Ridge, Illinois. I am assistant cashier at the Federal Reserve Bank at Chicago since 1920. I have been with the Federal Reserve Bank going on twenty-six years. I am responsible for the cash operation of the bank. The

Federal Reserve Bank meets the requirements of our member banks on demands for currency.

The Central National Bank of Chicago was a member bank of the Federal Reserve System during the year 1938 and '39, which came under my supervision and direction in my position with the Federal Reserve Bank. When currency was sent out to the Central National Bank we kept a record, by denominations, and that record is kept permanent at the bank. Those records are kept under my supervision and direction.

Government's Exhibit X-217-A to D, inclusive; X-218-A to D, inclusive; X-219-A to H, inclusive; X-220-A to H, inclusive; X-221-A to I, inclusive; X-222-A to I, inclusive; X-223-A to P, inclusive; X-224-A to Y, inclusive; X-225-A to R, inclusive; X-226-A to B-1, inclusive; X-227-A to X-227-X; X-228-A to X-228-Z, inclusive; X-229-A to X-229-Y, inclusive; X-230-B to X-230-Y, inclusive; X-231-A to X-231-Z; X-232-A to X-232-R; and X-233-A to X-233-Q, are part of the records kept under my supervision and direction as assistant cashier of the Federal Reserve Bank of Chicago, relating to currency shipped out to the Central National Bank of Chicago covering the period of June 1, 1938, to October 1, 1939. Those exhibits which I have enumerated designate the denomination of the currency sent to the Central National Bank of Chicago on the dates appearing on those exhibits. I have made a summary of the number of one-hundred dollar bills that were sent to the Central National Bank in the months including the month of June, 1938, to and including the month of October, 1939. I can tell from an examination of that summary the number of one-hundred dollar bills that were sent to the Central National Bank by the Federal Reserve System, starting in the month of June, 1938.

993 Q. Will you state, please, what the number of those bills were that were sent by the Federal Reserve to the Central National Bank during the period I have designated?

Mr. Thompson: We object to the testimony as immaterial and tending in no way to prove the taxable income of the defendant Johnson and as hearsay to all of the defendants and certainly to all of them except the defendant Brown, and as having no proper foundation laid for the reception of any such testimony,—no foundation that the number of one-hundred dollar bills sent out by the Federal Reserve to the Central National, has any relation to the number of one-hundred dollar bills that any of these defendants ever received for anything.

As I recall it the Currency Exchange did not become a client of this bank until a later period than that indicated, is another point.

Mr. Hurley: Covering the period slightly in advance of the opening of this account with the Lawrence Avenue Currency Exchange and the Central National, for the purpose of showing the rise in the number of one-hundred dollar bills which were required by the Central National, which connect up with the opening of this account.

The Court: Overruled.

The Witness: The month of June, 1938, is \$25,000.00;

July, \$20,000.00; August, \$75,000.00; September, \$40,994 000.00; October, \$50,000.00; November, \$60,000.00; December, \$185,000.00; January, 1939, \$240,000.00; February, \$180,000 00; March, \$300,000.00; April, \$250,000.00; May, \$285,000.00; June, \$255,000.00; July, \$240,000.00; August, \$275,000.00; September, \$165,000.00; October, \$155,000.00.

Those figures I gave you were in hundred dollar bills.

Mr. Thompson: We move to strike the evidence as immaterial and tending in no way to prove the taxable income of the defendant Johnson and too remote from any connection whatever with any defendant in this case.

The Court: Denied.

Mr. Thompson: And hearsay as to all of them.

The Court: Denied.

LILLIAN DOWNEY, being sworn, testified as follows:

Direct Examination by Mr. Hurley.

I live at 1308 North Mayfield Avenue. I have a sister, Bernice Downey. I live in the same home with her. On Saturday I was served with a subpoena in this case.

Q. And that subpoena was served on you to produce 995 general ledger, cash books, general journal, cash register, tellers' blotter sheets, bank statements, canceled checks, and all other books, papers, records, documents, correspondence, memoranda, reflecting all the transactions had by or through Bernice Downey and Stuart Solomon Brown, doing business as Lawrence Avenue Currency Exchange at 3424 Lawrence avenue, Chicago, Illinois, for the period commencing June, 1938, to and including November, 1939. You were served with a subpoena covering those documents, were you not?

A. That is right.

Q. To produce those documents here in court, as it says, "forthwith." Do you now produce those records that you were called on to produce?

A. I haven't any records.

Cross-Examination by Mr. Thompson.

I never did have any connection with the Lawrence Avenue Currency Exchange. I did not ever see any of these books that have been read off to me, in this long list. I never had any connection with those books in any way.

Mr. Thompson: We move to strike the testimony of the witness on the ground that it is altogether immaterial and that it is unfair to insinuate that this witness ever had those books without any foundation for it.

The Court: Do you know where those books are?

The Witness: No, I do not. I don't know anything about them.

The Court: Motion denied.

996 BERNICE DOWNEY, being duly sworn, testified as follows:

Direct Examination by Mr. Hurley.

I live at 1308 North Mayfield Avenue. I am the same Bernice Downey who worked in the Lawrence Avenue Currency Exchange with Mr. Brown. I worked there from the time it opened until the business closed.

I was served with a subpoena to produce certain books and records of the Lawrence Avenue Currency Exchange.

Q. And that subpoena specified that you produce the general ledger, cash books, general journal, cash register, tellers' blotter sheets, bank statements, cancelled checks, and all other books, papers, records, documents, correspondence, memoranda, reflecting all transactions had by or through Bernice Downey and Stuart Solomon Brown, doing business as Lawrence Avenue Currency Exchange, at 3424 Lawrence avenue, Chicago, Illinois, for the period commencing June, 1938, to and including November, 1939, those books to be produced here in court.

A. That is what mine said.

The Witness: I do not have any books and I never had any books. I don't have the books that you read off in this list that I was asked to produce.

I am the sister of Lillian Downey.

Mr. Thompson: Move to strike the testimony. It is altogether immaterial. Insinuating that this witness had any possession of the books or ever had any.

The Court: Motion denied.

Examination by the Court.

I never had any of them. I last saw them in the currency exchange in 1939, when the currency exchange closed. That was the last I saw of them. I did not see any of them after the currency exchange closed. I do not know
997 where any of them are. I do not know where any of them have been since the currency exchange closed.

BENTLEY H. MOORE, a witness on behalf of the Government, having been previously duly sworn, was examined and testified further as follows:

Redirect Examination by Mr. Plunkett.

My name is Bentley H. Moore. I have previously testified in this case. I am employed by the Illinois Bell Telephone Company. My position there is local commercial manager.

Government's Exhibits T-4 to T-36, both inclusive, are service application cards and contracts for telephone service for the subscribers whose names are shown on them. They are official records of our company, made in the usual and regular course of business. It is the usual and regular course of business for the Telephone Company to make such records and to make entries thereon at or about the time the transactions occur. These records are made in the form of abbreviation and code system.

Q. Handing you Government's Exhibits T-4 to T-9, both inclusive, will you state what telephone number those contracts refer to?

Mr. Thompson: If the Court please, before anything is read from contracts, or any testimony taken from them, we desire to have a foundation laid that will admit these contracts into evidence. It has not been now so laid.

Mr. Plunkett: He stated they are in the form of an abbreviation and code system. The only way I can show what they refer to is for him to testify to them.

The Court: What are they?

Mr. Plunkett: This first group consists—will refer 998 to 4301 Harlem Avenue, the Harlem Stables, the telephone contract at this place.

The Court: Overruled.

Mr. Plunkett: What is the telephone number, to which those refer?

Mr. Thompson: We should like to ask the witness a few questions before he testifies from these records, to see whether or not he knows anything about these records.

The Court: Very well.

Cross-Examination by Mr. Thompson.

I am not a bookkeeper over at the telephone company. I am a manager. I have very little to do with keeping

books, but I have supervision of maintaining records such as these. At the present time I am manager at 5100 North Clark Street. I worked at 4028 Irving Park Road from about January of 1934 until August of 1939. Some of these records are from that office at 4028 Irving Park Road. There are cards here for 4301 North Harlem. They are in the particular district governed by 4028 Irving Park Road.

There are cards here for 4721 North Kedzie, also handled by that particular district. There is a card here for 6430 North Drake, which, because of the type of service involved, is handled in that particular district.

There are cards here for 4715 West Irving Park Road, which are handled by that district.

There are other cards here for 6245 South Cottage Grove Avenue, not handled in that district, but exactly the same type record.

9730 South Western Avenue, not coming under the supervision of that district, but, again, it is the same type of contract.

999 Q. Do you know anything about these transactions represented by these cards, except what appears on the cards?

A. Only what appears on the records. I have no personal knowledge of the matter at all. I can't identify the handwriting of the subscriber. I don't know who signed any of these cards.

Mr. Thompson: We renew our objection that the foundation has not been laid for receiving the cards in evidence. They are not yet in evidence, and if and when they are, they will speak for themselves. We object to the witness testifying from the documents.

The Court: Overruled.

Mr. Plunkett continues direct examination:

The telephone number to which those cards refer is Kildare 9445. The records show that the telephone number was originally located at 4327 North Harlem and moved to 4301 North Harlem. That was a record change, only. It appears in our records as a move. It appears that we had 4327 incorrectly and changed the address, for our records only, to 4301 North Harlem Avenue. There was no actual change of equipment. No equipment was moved. This contract appears under the name of Jack Sommers.

Mr. Thompson: If the Court please, we want to object

to that as being hearsay as to all of these defendants except Jack Sommers, and not being identified as to Jack Sommers, the witness having testified that he can't identify the signature.

The Court: Overruled.

Mr. Thompson: If I may ask, your Honor, will all of these objections stand to each of the questions, so I shall not have to interrupt again, and the same ruling on them?

The Court: Yes.

1000 The Witness: It was installed under the name of Jack Sommers on 8/24/36, and then taken over under the name of Earl Jackson. There appears a change in the name of the subscriber thereafter. There was a change from Jack Sommers on April 21, 1939 to James Hartigan.

These contracts were for ordinary business service. There were two central office lines involved. We refer to them by means of the first number of the group, Kildare 9445. The other number was Kildare 9446.

I have been testifying from Government's Exhibits T-4 to T-9, both inclusive. All of these Exhibits refer to that contract.

The Government's Exhibits, T-10 and T-11, refer to Pensacola 6690. 4301 North Harlem Avenue is shown on the record as where Pensacola 6690 is. This contract appears under the name of James Hartigan. That was installed in that name of August 11, 1939.

Government's Exhibits T-12 to T-16, both inclusive, refer to telephone number Juniper 1818. That is located at 4721 North Kedzie Avenue. That contract appears to have been first made on March 13, 1935, under the name of James A. Hartigan. The location of the telephone at that time was at 4721 North Kedzie Avenue, second floor. The service was discontinued on December 7, 1938, and re-installed on December 12, 1938.

After that there was a change in the name of the subscriber to Jack Sommers on December 20, 1938. These exhibits refer only to Juniper 1818. On this contract for service there was only one central office line.

Government's Exhibits T-17 to T-19, inclusive, refer to Juniper 2420. That was located, at the time of the installation, at 4721 North Kedzie Avenue, first floor. That contract first appeared under the date of December 21, 1001 1938. The contract shows who was the prior subscriber. It shows that the name Jack Sommers super-

seded that of James A. Hartigan. The name of Jack Sommers first appeared on that telephone contract December 21, 1938. Prior to that our records indicate that it was under the name of James A. Hartigan.

These records indicate that there was a change of address from the first floor at 4721 North Kedzie to the second floor at 4721 North Kedzie Avenue. That change took place May 15, 1939. While the telephone was on the first floor of that address the contract shows there were two central office lines, Juniper 2420 and Juniper 2421, and that there was a portable telephone and one jack for the use of that portable telephone—also a wiring arrangement.

After the phone was shifted to the second floor at that same address this portable telephone and wiring arrangement was taken out, the two central office lines remaining.

Government's Exhibits T-20 and T-21 refer to telephone, Irving 2040, located at 6430 North Drake Avenue, first floor, Lincolnwood, Illinois. That contract was issued July 2, 1938. The contract does not show whether or not the subscriber listed thereon superseded any other subscriber. Apparently this was a new installation from the type of order that was issued.

On December 21, 1938, service was put on suspended rate or half rate service, and discontinued, and calls were referred to Juniper 2420. The bills during this suspension were mailed to 4721 North Kedzie Avenue, first floor, and this suspension service was discontinued on June 2, 1939.

The suspended rate on this particular class of service is half rate service, and the service is completely discontinued for incoming and outgoing calls. The telephone can't be used for service on this half rate. The half rate is charged just for the purpose of reserving the telephone number.

1002 Government's Exhibit T-22 refers to telephone number Tower 1525, formerly at Tessville. Tower 1525 is located at 6440 North Drake Avenue, first floor, Lincolnwood, Illinois. This contract was issued on June 23, 1938. It appears under the name of Jack Sommers. This service was put on the suspended rate basis on January 6, 1940, and apparently was placed immediately back on the full rate basis. It appears on the same date.

Mr. Thompson: Now, if the Court please, I want to add to my objection that there is no connection of defendant William R. Johnson, with any of these transactions; it is

hearsay as to him. Furthermore, none of these documents are in any way material, nor is the testimony being given from them. This evidence tends in no way to prove the taxable income of the defendant Johnson, or any attempt to evade the taxable income. We move to strike the testimony already given, and object to any further testimony from these documents on those grounds.

The Court: Motion denied, and objection overruled.

The telephone number appearing on the records, Government's Exhibits T-23 and T-24, is Kildare 9821. That telephone is located at 4715 West Irving Park Road, first floor. This contract was installed under the name of the customer appearing on this record, Reginald E. Mackay, on June 2, 1937. The contract shows that subscriber superseded Garrett Meade on June 2, 1937. The contracts, Government's Exhibits T-25 and T-26, refer to telephone number Kildare 3571, located at 4715 Irving Park Road, first floor. That appears under the name of Reginald E. Mackay, under date of June 2, 1937, superseding Garrett Meade.

Government's Exhibits T-27, T-28 and T-29, refer 1003 to the same number I have just been testifying about,

Kildare 3571, at the same address. These records show that the customer was Garrett Meade.

Government's Exhibit T-28 shows the change from Reginald E. Mackay to Garrett Meade. This particular record is signed on June 1, 1937. The change was made from Garrett Meade to Reginald E. Mackay.

The contracts covering these exhibits, T-30 and T-31 originally referred to Dorchester 0875. There were subsequent changes of telephone numbers, until the last number which is shown is Midway 1303. That telephone was located at 6245 South Cottage Grove Avenue, the second floor. The first service installed according to these contracts was November 3, 1933. That service appears under the name of Andrew J. Creighton. There were several changes of the telephone number, to which I have referred. There was a discontinuance of one of the central office lines. There was more than one line in use here. The original there was Dorchester 0875 and 0876 in use, and on November 26, 1935, the second line was discontinued. That was later put back again, under date of March 24, 1936.

The character of the equipment installed on these premises was ordinary exchange service, central office service.

Later on, on December 27, 1938, there were two extensions added according to this record, one on Midway 1303 and one on Midway 1304. According to this record all the extensions were in the same premises.

Q. Is there any record there of an unauthorized extension of any kind?

Mr. Thompson: We object to that.

1004 The Court: Let him answer.

The Witness: Yes. There is a record here. Well, I will read this notation—

Mr. Thompson: If the Court please, we object to reading any notation. It is hearsay.

The Court: You propose to introduce these?

Mr. Plunkett: Yes, we do.

Mr. Thompson: Apparently that has to do with some charge that somebody who had this telephone stole some telephone service or something, unauthorized extension. It is proof of an entirely independent act and could have no possible connection with the amount of the income tax that Mr. Johnson owes. It is hearsay as to everybody—

The Court: You are instructed that the word unauthorized should be put out of your mind. There is some sort of service there that was not theretofore indicated on the card. Objection overruled. Tell us.

The Witness: There was an order issued, order out, closed by police.

The Court: Q. What?

A. "Order out, closed by police".

The due date, the billing date. "Mail official bill to same address. Do not cancel or connect without referring to the local manager. Telephone unauthorized extension from 6245 South Cottage Grove Avenue to 6241 South Cottage Grove which was closed by police."

Mr. Thompson: Now we move to strike that as hearsay and prejudicial and no connection with any defendant in this case.

The Court: Overruled.

Q. By unauthorized, you mean one that has not theretofore been contracted for?

A. Yes, sir, not shown on our records.

1005 The Court: That is the only meaning you are to give to it, ladies and gentlemen. Has not theretofore been contracted.

Mr. Plunkett continues examination:

The contract, Government's Exhibit T-32, refers to Plaza 2435, later changed to Midway 4810. That telephone was originally located at 6245 South Cottage Grove Avenue, on the first floor. That appears under the name of Andrew J. Creighton, installed on August 25, 1936. There were some extensions added. One extension was added on April 6, 1937. Two more extensions were added on July 30, 1937. These extensions ran into a key cabinet on Hyde Park 7802 on the same premises. There were also some changes of address, one on November 28, 1936 to 6245 South Cottage Grove Avenue, the second floor; another change of address, April 6, 1937, to 6245 South Cottage Grove Avenue, the first floor.

The contracts, Government's Exhibits T-33 to T-36, both inclusive, refer to Cedarcrest 0640, and 41. The address of that telephone number is 9730 South Western Avenue, the first floor. That was first installed on July 27, 1937, under the name of Andrew J. Creighton. There are numerous changes in this service. There were additions of some extensions; one on June 12, 1939, the date is not shown on the subsequent extension, what date it was actually completed; but our records show that an order was issued on June 14th. The service was finally ordered completely disconnected on December 5, 1939.

The symbols on Government's Exhibit T-34, under date of June 21, 1939, is an order issued to correct a previous order a change of location of two central office lines and the appointment date is June 20, 1939, before 10:30 A. M. See Mr. Gitzen for location.

Q. Now, as to all of these exhibits which you have been shown Government's Exhibit T-4 to T-36, can you 1006 state whether or not any one of these telephone numbers were ever published in your directory?

Mr. Thompson: We object to that as immaterial. I do not know what that has got to do with this law suit.

The Court: What difference does it make?

Mr. Plunkett: I think that is a part of the contract, if the Court please.

The Court: Let him answer.

The Witness: Our records show that one telephone, that is, Towers 1525 had a listing on one occasion, from June 23, 1938, to July 6, 1938, of the Dev-Lin Club, with the designation of "Restaurant".

At other periods of time covered by that Towers 1525

contract it was not published. None of the other contracts were ever published at any time, according to these records.

Mr. Plunkett: The Government will offer GOVERNMENT'S EXHIBIT T-4 to T-36, both inclusive.

Cross-Examination by Mr. Thompson.

I do not know whether the Mayor's telephone at his residence in Chicago is in the telephone book. There are many private telephones that are not published in the telephone book, for reasons which the subscriber may or may not assign. It is none of our business whose names are published in the telephone book.

This card indicates that a hand set telephone was installed at this Tessville 'Phone. It is a cradle type of telephone, sometimes called the French telephone, where the 'phone receiver and transmitter are both on one piece that lies across the top of the base. It was not a dial phone in that territory. I do not think there was any in that territory at that time.

1007 The instrument at 4301 North Harlem Avenue was a cradle hand set, no dial telephone.

At Juniper 1818, at 4721 North Kedzie Avenue, that had a hand set, no dial telephone.

Telephone Juniper 2420 at 4721 North Kedzie Avenue had hand sets on the two central office trunk lines, a hand set on the portable instrument, which carried a plug ended cord. No dial service there. There is not any dial service in that neighborhood.

It is not customary to write gossip on these records.

Q. Well, what about this closing this place out here on account of police raid? How does one get that information?

A. That was, we received an order through our organization to order it out for that reason.

It comes through our organization, through a certain channel to us that it is closed by the police. The name of the representative who wrote here on this card I do not know. It was some one employed in that office. I do not recognize the hand writing. I do not know where that person got the information which is the foundation for the entry on that card. I don't know whether that particular address was ever raided by the police or not. I do not know of my own knowledge that there ever was any unauthorized telephone service in there other than what is

written on that card. The address on the card about which we are talking is 6245 South Cottage Grove Avenue, the second floor. I don't know what business is operated at that address. The date of the entry on this card about the police raid is shown as December 13th, but the year does not appear. The record indicates that on December 13th, some year during the period covered by that card, there was a police raid. It reads, "Ordered out account closed by police. Bill to December 13th. Mail final bill to the same address. Don't cancel or connect without re-1008 ferring to local manager. This telephone has an unauthorized extension from 6245 South Cottage Grove to 6241 South Cottage Grove which was closed by the police." Initials of the representative and the date, December 12th.

I don't know who wrote any part of that on there. I don't know where the information came from to the person who did write it on there.

Q. I assume you know nothing about who was the proprietor of these various places at the time these phones were put in and taken out?

A. I only know the name of the customer. The name of the customer is shown on here.

When a phone is transferred from one customer to another I don't know whether there has been any other transaction at or prior to that date respecting the change of ownership of the property. I merely know the request was made to change the telephone. I wouldn't know from those records that Mr. Mackay bought out Mr. Meade and took over his place of business, on or prior to the date of the change of that telephone.

Mr. Thompson: We object to the exhibits on the ground, first, that there is no proper foundation laid for their authenticity or for their receipt in evidence in this case, they are altogether immaterial to any issue in this case, do not tend to prove the taxable income of the defendant William R. Johnson for any year, much less the specific years mentioned in this indictment, and do not tend to prove the action of other defendants with respect to aiding or abetting the defendant Johnson in evading the payment on any income; and particularly we object also that they are hearsay as to the defendant Johnson, and there is no showing that he is in any way connected with any of these transactions, and that they are hearsay as to each and every of

the other defendants, excepting only to whoever participated in the transactions, and as to them there is no identification that any defendant ever participated in them.

The Court: Overruled. They may be received.

(Said exhibits, so offered and received in evidence, were thereupon marked GOVERNMENT'S EXHIBITS T-4 TO T-36, inclusive.)

PAUL UPDYKE, being duly sworn, testified as follows:

Direct Examination by Mr. Hurley.

I live at 8619 Engleside Avenue. I am employed by the Collector of Internal Revenue since May, 1935, in the capacity of an auditor. I have been an auditor during the period of my employment there. I help audit income tax returns, decide what returns should be questioned, and when people are called in on the return I interview the taxpayer, in regard to the items of income and deductions.

I have seen Government's Exhibit R-14, for identification, before, in the office of the Collector of Internal Revenue, in the course of my duties in the office of the Collector.

I talked with William Brantman with regard to Government's Exhibit R-14, the income tax return of William P. Kelly. In some way it was decided that the items of deduction should be investigated and a call letter was sent to the taxpayer. He was asked to appear in the office of the Collector of Internal Revenue in connection with the audit of his income tax return. Subsequent to that letter going out I talked to Mr. Brantman in my office. The date that he appeared is on the return. I have written the notation there, November 25, 1935. That was with reference to the return of Kelly for the calendar year of 1934. I

think that the pencil writing behind the word "Occupation" is mine. I am not positive. As to the other pencil notation in answer to question 4, that is my handwriting, and as to the pencil notations between items 8 and 9, the two lines, that is my handwriting, and also the notation written under the date 11/25/35 is my handwriting.

The initials "P. U." are in my handwriting.

These notations were placed on there in the presence of Mr. Brantman that I speak of.

Q. And from whom did you get the information to write

those notations on the face of that return, Government's Exhibit R-14?

Mr. Thompson: We object to all this as immaterial;—

A. From Mr. Brantman.

Mr. Thompson (Continuing): —in no way binding on any of these other defendants, certainly.

The Court: Overruled.

Mr. Hurley: Q. Did Brantman tell you the occasion for his being in your office?

A. Well—

Mr. Thompson: We object to it as hearsay, if he did.

Mr. Hurley: This connects up, your Honor, with the evidence and the testimony of Brantman; if you will recall, he said that Kelly sent him in in response to this letter with regard to his return.

The Court: Objection overruled.

The Witness: Mr. Brantman said that he did the accounting for the employer of Mr. Kelly.

Mr. Thompson: We move to strike that answer as hearsay, and immaterial to any issue in this case, certainly no authority for Brantman to speak for anybody. An 1011 agent can't prove his authority by his own statements.

There has been no evidence in this case that Brantman was the agent of anybody.

The Court: The last answer of the witness is admissible only against the defendant Kelly; it is not admissible and is not to be considered as against any of the other defendants. It is admissible against Kelly.

The Witness: At the interview with Mr. Brantman I discussed the figures on this return and the notations to which I had testified were made during the course of this interview. Mr. Brantman has been in our office on other income tax returns. I got the information to make the notations to which I have testified to from Mr. Brantman.

Cross-Examination by Mr. Thompson.

I wrote everything on that sheet of paper that is written there in lead pencil, except one word which, as I have said before, I am not positive about. That word is "Gambling". I don't know whether I wrote the word "Gambling" or not. I wrote all of the rest of the matter written in lead pencil and the source of my information was William Brantman. I never talked to Mr. Kelly and I never talked to any of the rest of these men around the defense table here.

This conversation with Mr. Brantman was on November 25, 1935, and I was then examining with respect to the income tax return for Kelly filed on the 15th of March, 1935, for the year 1934. I had no word from Kelly that Brantman was his agent or had authority to speak for him.

There would be a great number of conferences I 1012 had in 1934 with respect to income tax returns.

I devote my full time to auditing income tax returns. The only returns that I and the other auditors in the local office audit are those where the income is less than \$5,000.00. The others are audited by the Internal Revenue agents outside of the Collector's office, another division of the Treasury Department.

Mr. Brantman came in to my office many times, representing many different clients. At that time I had been there about six months. Mr. Brantman had been coming in quite frequently even during that short period of six months, and subsequently he had been coming in frequently, clear down to the present time. I have had many conversations with him. I wrote down on this sheet what I thought was necessary to establish the right of Mr. Kelly to make the deductions he had. I made the notations so that any one who looked at the return subsequently might know why the deduction was taken, why I made the audit and approved the deduction, so that what I wrote down there was as much of a conversation as I thought satisfied the requirements that would allow this deduction from his income tax return. I don't know whether this word "Gambling", up at the top, was written in before or after the audit. I am not even positive that is not my own handwriting. "One mother" after the question, "How many dependents" is in my handwriting. I didn't write the word "salary" after the statement, "Miscellaneous commission earnings". That was on the return when it came to me. The notation "11 25 '35, case closed. No change. P. U."—"P. U." are my initials. The notations were made on here for the purpose of allowing him to take his personal exemption.

Mr. Hurley: I offer this in evidence, if the Court please.

GOVERNMENT'S EXHIBIT R-14, for identification.

1013 Mr. Thompson: We object to the offer on the ground that it does not establish that even Mr. Kelly authorized any of these statements that are on there. The truth of the statement is not established in any way by any

competent evidence, and as to Mr. Kelly, we object on the ground that it is unauthorized and hearsay statement; as to all of the other defendants, it certainly is unauthorized and hearsay. We feel that by no instruction can the Court possibly protect the other defendants from the evil effect of that statement written on there by somebody.

I think we already have our general objection to this document, previously, that it is immaterial to any issue in this case.

The Court: It may be received, exclusive of the pencil writing thereon—

Mr. Hurley: You mean, delete that?

The Court: No; in respect of Government's Exhibit R-14, which purports to be a return, individual income tax return of the defendant William P. Kelly, for the calendar year 1934, the jury are instructed to disregard the pencil writings on that exhibit; they are not in evidence. You are to disregard them entirely.

The Court: The defendants indicate they desire those pencil writings erased, and the Government indicates they may be erased.

(Said document, marked GOVERNMENT'S EXHIBIT R-14, is received in evidence.)

Mr. Thompson: Well, of course, our desire to erase is no waiver of any objections to the exhibit, to the materiality and so on. Of course, it does eliminate our other point.

HENRY LEVINE, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

1014

Direct Examination by Mr. Hurley.

My name is Henry Levine. I live at 6528 North Mozart Street. I am an internal revenue agent and have been for six years and four months. Before that I was a clerk in the Internal Revenue Bureau in Washington for three years and nine months. I have been assigned to this district for six years and four months. As an Internal Revenue Agent my duties consist of investigation of income tax returns of taxpayers whose gross income exceeds five thousand dollars, with special reference to cases involving avoidance or evasion. My superior is Louis H. Wilson. His office is located at 1100 Bankers Building.

I was assigned to investigate the income of one James A. Hartigan by my superior, Louis H. Wilson, about December, 1939, in connection with the years 1935 to 1938, inclusive. I talked to Hartigan with regard to that investigation on December 28, 1939, in Room 284, United States Court House, this building. I know the defendant Hartigan (indicating defendant Hartigan). Special Agents Converse and Sommers were present at the time I talked to him. Mr. Sommers and Mr. Converse interviewed Mr. Hartigan and the stenographer made a transcript of the testimony.

Government's Exhibit O-209, is a transcript of the statement taken of Hartigan at that time and place that I have indicated.

I talked to Hartigan officially after that on or about the first of February, 1940, in my office, with a number of other revenue agents in the same room with me present but not connected with the case. These other agents were not engaged in that conversation.

Q. Now, what did you say to Hartigan and what did he say to you?

Mr. Thompson: If the Court please, we object to the statement as a narration of past events and hearsay 1015 as to all the defendants, except the Defendant Hartigan. And furthermore, we call attention to the fact they already have in one statement of Hartigan, and here is the second investigation of the same thing, apparently.

The Court: Objection may be overruled as to the defendant Hartigan, and sustained as to the other defendants.

The Witness: I asked Mr. Hartigan to produce his records, which would indicate just how he arrived at certain figures reported on his income tax return. I hadn't, until that time, examined Hartigan's income tax returns for the years I have indicated, but I did examine that. I asked Hartigan for his books and records. He produced a small slip of paper taken from a note book and showed me how he had computed the income for the year 1938.

Government's Exhibit X-237, for identification, is a slip of paper taken from a note book, showing the income of \$11,500.00, plus \$20.00 dividends in stock of the Peoples' Gas Company. I got that slip from Mr. Hartigan. There were certain figures on the right-hand side of the slip showing items of \$450.00. Mr. Hartigan's explanation of the items as representing certain funds taken by himself for living expenses. In the center of the slip of paper are frac-

tions ranging from one and one quarter to two, which were explained by Mr. Hartigan as representing certain funds taken by him in excess of a bank roll of five thousand dollars. Mr. Hartigan's explanation of fractions of one and a quarter represented \$1250.00; one and a half represented \$1500.00; two represented \$2,000.00. There were no further explanations that I now recall with reference to that exhibit.

1016 On December 28, 1939, I had a talk with him with regard to records. I pointed out to Mr. Hartigan that it would be both convenient for the taxpayer and the Government if records were properly submitted. Mr. Hartigan stated that he would produce such records as existed. He produced no other records than the social security records, Government's Exhibit 237, for identification.

I went with Hartigan with reference to books or records to 5221 West Quincy Street, the home of some people by the name of Downey. That was on the first day I saw Mr. Hartigan, December 28, 1939. Mr. Hartigan took me into the back door and asked a woman occupant of the building to produce a box which contained nothing but these social security tax returns.

I don't recall any conversation other than what I have related here between myself and Hartigan at the time he delivered to me Government's Exhibit 237 for identification.

Mr. Hartigan told me that his business was gambling.

I did have another assignment other than the investigation of the defendant Hartigan's income. That was the income of John M. Flanagan. I endeavored to get in touch with Mr. Flanagan. I tried to locate him. I made certain inquiries with regard to Mr. Flanagan's personal address and where Mr. Flanagan could be located for the purpose of making a proper investigation of his income tax return. In the course of my investigation I went to 4020 Ogden

Avenue three times. I did not find Flanagan. That 1017 was over the period of one month, in January, 1940.

The type of business in 4020 Ogden Avenue was gambling. The place was not open at that time. Nobody was there. I didn't get in the building at all. I did go elsewhere than 4020 Ogden Avenue.

Q. Over what period of time did you attempt to communicate with the defendant Flanagan?

Mr. Thompson: We object to that. There isn't any chance at all to check the statement.

Mr. Hurley: I think he has a right to tell.

Mr. Thompson: It calls for a conclusion, an attempt.

Mr. Hurley: He testified that he was trying to locate him. Now, I think we have a right to show what period of time he spent on that.

The Court: Well, let him answer.

The Witness: From January 1 to about February 1, 1940.

Mr. Hurley: I will offer in evidence Government's Exhibit X-237, for identification.

Cross-Examination by Mr. Hess.

I saw Mr. Hartigan on two occasions. I have seen him unofficially on occasions. That was not with respect to his income tax. To the best of my recollection I have told you all the conversation I had about his returns for 1935 and 1938, the two times when I saw him. I don't recall that there was any conversation about Mr. Brantman. He did not ever tell me that his books were with Mr. Brantman. I never heard that, for the year 1935 or 1936. He never told me he was operating a restaurant at Kedzie and Lawrence. I never heard that. I knew then only that he was a gambler in those years. I also knew, in a general way from my conversation with him, exactly how he kept a record of his profits and losses from his gambling business.

I did not, as the Internal Revenue agent investigating these returns accept his return as made. I made certain adjustments. They were not taken care of by Mr. Hartigan. They were not protested. To the best of my recollection, he explained to me just how he arrived at those figures on the slip, Exhibit X-237, and he told me that he counted his money every month and found out how much he had more than the previous month and that less his living expenses was his income. That is what he told me. He did not swear to that before our Bureau. He did swear to the statement that I saw December 28, 1939. I don't think that statement included an explanation of how his income was arrived at, which he included in his returns.

I do recall the subject matter of his interrogation on the 28th of December. It was partially about his income tax return. On February 1st the subject matter of my interrogation was entirely about his income tax. Mr.

Hartigan told me the year that this X-237 had to do with. I saw him get that little slip from a little notebook that he took out of his pocket. I didn't see the notebook other than this slip. I did not ask to see it. I did notice that it covers 1938. I did not look at the book for '35, '36 and '37. I didn't do anything with the social security record in determining his income tax. It was of no assistance whatever because these records covered the first three quarters of 1939. I did not see the thirty-sevens and thirty-eights. Social Security records would not help me in determining what a man's net taxable income was. I had Mr. Hartigan's returns before me at these interviews that I spoke about. That was on the occasion of February 1st.

I had before me Government's Exhibit R-53 on February 1, 1940, when I was interrogating Mr. Hartigan about his income tax report. The document had the rider attached to it. I do recall that rider. I questioned him about it. That had to do with the restaurant business. I do know there was some restaurant business in connection with his returns when I talked to him on February 1st. The adjustment that I refer to as having 1019 been made did not amount to a disallowance of loss on his restaurant business. I did not disallow that loss. I believe that was shown on a prior report—prior investigation. Prior to my coming on the scene, I know the loss was not allowed, due to the fact that Mr. Hartigan did not submit any records to substantiate the deduction. I don't know whether he could produce records to substantiate the deduction or not, but he did not. He did not tell me why he could not. He did not tell anybody in my presence why he could not.

I said I have been in the Internal Revenue Bureau six years and four months and in general the duties I perform is investigation of returns that are made.

I notice from these returns of Mr. Hartigan that he has not stated here that he has been a gambler. I notice "Miscellaneous income," "Speculator," but I knew all the time that he was a gambler.

I still have in our department the Social Security books of Hartigan that were turned over to me.

Mr. Hess: I want to move to strike out the entire testimony of this witness. First, as to Hartigan, on the general ground that the complete purport of his testi-

mony touches the matter of accuracy of Hartigan's income tax return. They are not involved in this litigation; entirely immaterial to the issue that is made by this indictment; secondly, I also move to strike out every word said by the witness, all of his testimony, with respect to Flanagan.

The Court: You are offering this in evidence?

Mr. Hurley: Yes, your Honor.

The Court: It may be received as against the defendant Hartigan, only. That is Government's Exhibit X-237.

1020 (Said document was thereupon marked GOVERNMENT'S EXHIBIT X-237, and received in evidence.)

The Court: Motion to strike out the testimony of the witness with respect to the defendant Flanagan will be overruled.

Mr. Hess: How about the defendant Hartigan—I mean, as to both of them?

The Court: Denied.

PURVIS A. LAWRASON, being duly sworn, testified as follows:

Direct Examination by Mr. Hurley.

I live in Downers Grove, Illinois. I have been an internal revenue agent for twenty years. During that time I have been assigned to the Chicago district. I have been an agent in this district all of that period, with the exception of six weeks I was in Washington, training. I am assigned to the suspected fraud section of the Internal Revenue Bureau since about May, 1939. My duties in general are to verify the items on the returns as submitted and see if the income ties in with the income reported.

In that connection I was assigned to investigate the income tax return of the defendant Creighton by Louis Wilson, my superior. I was assigned for that particular duty about the middle of December, 1939.

I talked to Creighton the first week in January of 1940, at his home, 4920 West Jackson Boulevard.

Q. What did you say to Creighton and what did he say to you at that time and place?

Mr. Thompson: We object to the testimony. In 1021 the first place, Mr. Creighton's income tax is not under investigation here; secondly, it is hearsay as to all of the rest of these defendants; a narrative of past events.

The Court: It will be overruled as to the defendant Creighton, and sustained as to the other defendants.

The Witness: I told Mr. Creighton I had his returns for 1936, '37, and '38, for investigation, and would like to see what books or records he had to substantiate the income and the deductions on the return. Mr. Creighton said he had no books. I asked what other records he had and asked about his bank accounts. He said he had some bank statements, some of the checks, but the accounts were not very active, so probably didn't show very much.

That is what Creighton said to me. The only thing said about records was that he had no books; that the checks and statements were all he had. He said that his business was keeping a book at 6243 South Cottage Grove Avenue. That is the only place he mentioned. He said he had part of his records there, a part of them at the bank, if that is material, and that some of his records were at home—I went to his safe deposit box at the Continental and got some checks and bank statements. Mr. Creighton turned over to me part of the bank statements at his home. I think there were statements for '36 and '37, and some checks for '36 and '37.

The records I secured at the Continental were the bank statements and checks for '38. There was one letter from a cigarette vending machine turned over to me by Creighton. I talked to Mr. Creighton once after that in our office in the Bankers Building. There was no one else present at this conversation besides myself and Creighton. I asked if he had found any more records that would be of benefit to me. He said no, that he had not 1022 found any additional records. I asked him if he could give me any further light on the items and he said no. That was our conversation at that time. That was all of it.

After talking with Mr. Creighton I went to the banks and got the ledger sheets of his account, and copied that, got some of the deposit tickets, and then I started running the checks film through the Recordack, to see if I could find anything further. That was the Mid-City National

Bank at Madison and La Salle Street. I examined these films for the years 1936, '37 and '38. I examined the films through October, November and December for 1936, and checked back on the other years, but not every day of those years. I checked all of the year 1937, and about the first nine months of '38. Mr. Schultz, the cashier, turned over those records of the Mid City National to me for examination.

Government's Exhibits, X-187, are films for the Recordack machine. They have the mark "X" that I put on there when I checked them. This one here has no "X." I can not state whether I examined that film. I don't know whether I put that "O" on there or not. I think I can tell from an examination of my work papers whether I did examine that film. Yes, I examined that. That box is right.

I examined Government's Exhibit X-188, containing a number of small boxes. These contain the "X" I have referred to before.

I examined Government's Exhibit X-189, being a box containing a number of small boxes, at the Mid City National Bank.

I examined Government's Exhibit X-186, being a box containing a number of small boxes.

I examined Government's Exhibit X-190, being a box containing 17 small boxes.

1023 I examined those in the course of my investigation on this assignment about which I have testified.

In the course of my investigation I had available Government's Exhibit X-192.

Referring to Government's Exhibits, X-186, X-187, X-188, X-189 and X-190, containing those boxes of films I have just looked at, I ran those through the projector, getting a picture of the checks, and picked out of those the check that had A. J. Creighton's endorsement on it, and in the course of running this film through the projector I saw the front and the back of the check. Those were checks cashed at the Mid City National Bank.

I spent about five weeks examining those Recordack films, being Government's Exhibit X-186 to 190, inclusive. I worked about from a quarter to nine to a quarter to five in the evening, an hour out for dinner. This examination was made in the bank building on the second floor. I did, in the course of my examination, make a

record of the total number of checks from these Recordak films. The exhibits I referred to are the amount of checks cashed with the endorsement "A. J. Creighton" appearing on the check for the period I have testified to in 1936.

Q. Will you state what that amount was?

Mr. Thompson: We object to the witness stating the amount. It is hearsay as to all the rest of these defendants and immaterial to any issue in this case. It is impossible for these defendants to cross examine this witness with respect to what he saw looking into this machine, except that we take five weeks to run them through here.

The Court: Objection overruled.

Mr. Thompson: It is not the best evidence. It is contrary to the constitutional right of the defendant to be faced with the witnesses.

The Court: Overruled.

1024 The amount of the checks that were cashed in that bank by Creighton in 1936 is \$47,922.37.

Mr. Thompson: If the Court please, before we get past that I move to strike that on the ground there is no proof that this witness knows the signature of A. J. Creighton, and no proof that A. J. Creighton has cashed a single check he is now testifying about.

The Court: What do you say to the first objection?

Mr. Hurley: He says he had this signature card available, which I have referred him to at all times in the examination of these Recordak films, which heretofore has been shown that was the signature of Creighton, and that was on file in the bank records.

Mr. Thompson: No proof that this witness is qualified to make a comparison of the signatures to determine who signed these checks or endorsed them.

The Court: Go on and find out what he did to them.

Mr. Hurley continues the examination:

The Witness: When I was making this examination at the bank, Government's Exhibit X-192 was not in front of me. I had seen it, though. I saw the signature of the defendant Creighton there. I saw it on the return. I have seen some of the checks that I saw in the Filmograph. When I saw those checks that I state had Creighton's signature on them they were in the hands of the maker, Donald P. Blake.

Mr. Hurley: Those checks are in evidence, if the Court please.

Mr. Thompson: It is still a matter of comparison of the signature. This witness has shown no qualification to be able to tell by comparison, and furthermore, he was five weeks examining these checks. He says he did not have this before him. He just saw it once.

The Court: He saw the returns, some of the re-1025 turns of A. J. Creighton. He has seen checks bearing the endorsements of Creighton, which the maker of the check has paid. I think it might be said that that is the signature of the defendant Creighton, and there may be some doubt further whether he is required to know the signature of Mr. Creighton.

What he is testifying to is the checks bearing this name and handwriting there.

Mr. Thompson: But we are having that proof put in here against the defendant Johnson and a lot of other people.

The Court: I think he is qualified. I think he is generally qualified to identify the signature of the defendant Creighton. Objection overruled.

Mr. Thompson: We object to all that as immaterial and tending in no way to prove the income of the defendant Johnson.

The Court: Overruled.

Mr. Thompson: And hearsay as to all the defendants except Creighton.

The Court: Overruled.

The Witness: The defendant Creighton turned over to me, at the time I saw him at his home, certain of his checks that were drawn on the Mid City and the Continental.

Examination by the Court.

There were forty or fifty checks. On the Mid City they were signed A. J. Creighton, the same as on the card.

The Court: Objection overruled.

Mr. Hurley continues examination:

I made a computation of the amount of checks in dollars and cents, cashed at the Mid City National Bank by the defendant Creighton during the year 1937. The total was \$203,954.03. That was arrived at through an examination of Government's Exhibit X-186 to X-190 and X-192, 1026 inclusive. I examined the first nine months of 1938 and made a computation of the amount of checks in

dollars and cents cashed at the Mid City National Bank by the defendant Creighton during that period of time. The amount was \$88,812.92.

Q. Can you tell us what the total was for the period of '36, all of the year '37, and the nine month period of '38?

A. I am not certain of that.

Mr. Thompson: If the Court please, this is merely a matter of computation. You can't lump evidence for the various years on a tax case. A man's income tax is due from year to year, and every year is a stop. Every year is a point of commencement.

We object to it as hearsay as to all the rest of these defendants and renew all the other objections that we have made as to this kind of evidence.

The Court: Overruled.

Mr. Hurley: Can you tell us what that total was, Mr. Lawrason?

A. I can add it up and give it to you, yes.

(The following proceedings were had out of the hearing of the Jury.)

Mr. Thompson: If the Court please, we would like the Government to state to what point they propose to offer this. I don't see how you can lump taxes. The transactions which took place in 1937 certainly can't have any bearing on 1936. Each year is a certain separate tax period.

Mr. Hurley: The total is all of the items that Creighton cashed at the bank.

Mr. Thompson: Yes, for what purpose is the total given, only to inflame by having some box car figures here? We will certainly break it down.

1027 Mr. Hurley: You have a right. It is your privilege.

The Court: Overruled.

Mr. Callaghan: I wish to call your Honor's attention to page 26 of the bill of particulars. That is at variance with this witness' figures, by almost a hundred thousand dollars. Start with the year 1937, \$100,000.00. The figure here was almost double that. That is the information furnished us, to which we came here to defend in this law suit.

The Court: What do you say about that?

Mr. Hurley: I think the total all together comes to about the same amount.

Mr. Callaghan: For the year '37 we are talking now.

Mr. Hurley: I don't think that is vital. That is for giving the source where it comes from.

Mr. Callaghan: That is not what the answer to the question was. What do these pictures show as to the aiders and abettors? That is what you say Creighton did as an aider and abettor, to cash checks for a certain amount.

Mr. Campbell: The amount is not so material as the fact that he cashed checks.

Mr. Callaghan: It is material.

The Court: What is the page?

Mr. Callaghan: Page 26.

The Court: What do you say about that '37 item?

Mr. Campbell: Your Honor, on page 4 of the bill of particulars is reference to the '37 item of gross income of the Defendant, and on 26 it refers to the next page, he aided and abetted, and it lists the amount of gross income, item 5 on page 40 is two hundred and nine thousand, on this Mid-City. There is no computation. There is a large figure cited.

Mr. Callaghan: Several banks lumped together and several persons to those transactions. I am talking about the bill of particulars furnished the defendant Creighton.

Mr. Campbell: As I recall that motion to further particularize there was denied, that is, to breaking it down.

Mr. Callaghan: That has nothing to do with the inquiry.

The Court: What was this figure the witness gave for '37?

Mr. Campbell: I don't recall what the figure was.

Mr. Hurley: For '37 was \$203,954.00.

The Court: Overruled.

The following occurred in the presence of the jury:

Mr. Hurley: Read the last question and answer.

(Same read as follows:)

"Q. Can you tell us what the total was for the period of '36, all of the year '37, and the nine-month period of '38?

"A. I am not certain of that.

Also: "I can add it up and give it to you, yes."

The Witness: \$340,689.32.

I have seen Government's Exhibits X-238 to 251, inclusive, before. I saw them in the batch of checks that Mr.

Creighton gave me that I have described heretofore in my testimony. These are checks drawn by Mr. Creighton on the Mid-City National Bank. The signature is A. J. Creighton on each one of those.

My accounting experience, outside of the Government Service, was that I have kept books and done a little auditing and taught a little, at the Smith Deal Business College, Richmond, Virginia. I taught accounting there about March, 1919, to about November of 1919.

Mr. Thompson: We admit the qualifications of the witness for all the accounting he has testified to so far.

Mr. Hurley: I offer in evidence at this time, if the Court please, Government's Exhibits X-238 to 251, inclusive.

1029 Mr. Thompson: We object to these documents as immaterial to any issue in this case; certainly tend in no way to prove the taxable income of the defendant Johnson or others, and I can't see any purpose in offering them.

The Court: Are these some of the papers that Mr. Creighton gave to you when you went to talk with
1030 him about his income tax?

A. Yes, sir.

Mr. Thompson: May I suggest that this isn't a prosecution against Mr. Creighton for his income tax; has no bearing on that subject.

The Court: They may be received.

(Said exhibits, so offered and received in evidence, were thereupon marked GOVERNMENT'S EXHIBITS X-238 to X-251, inclusive.)

Cross-Examination by Mr. Thompson.

The earliest film that I checked was for the first of July, 1936. I think that film is in some of these boxes—I didn't look for July 1st. They are all dated on the box. The way I identified these boxes is by the date, the cross mark and the ones I checked against my records here. This memorandum I hold in my hand is something I made from my examination of films out at this bank. I made a memorandum immediately upon sighting a check through this projector. I put down the date of the film, if the check was large I put down the name of the maker, and on all of them I put down the amount of the check. The first

film dated there is the one of July 1, 1936. I found four on that film before the name of A. J. Creighton.

I had the wrong page, Mr. Attorney. I would like to start over where you started asking me about the earliest check. The earliest check or the earliest film was October 26, 1936. July 1, 1936 is another sheet. That hasn't anything to do with these checks here, that I have been testifying about. Commencing with October 26, 1936, I found five checks on that film. I think that film is there. I can tell

whether it is here by the date on the little box. I 1031 wouldn't know what was in the little box until I run it through. I might tell by looking at it with the naked eye, but it would be a pretty hard job. I think that is the little box. It has two dates there, but that must be the one. I told you before I can't tell you what is in that until I run it through, but I think those checks are right in there. I identified that box as the box I had before because those were the cashed checks of October 26th and 27th and I put a mark on there to show that I had finished the checks. The mark put on there is just a straight cross mark—a straight line horizontally and a straight line vertically. I could not tell my mark from any one else's if it looked the same. My mark on these boxes is practically all the same. Some of them are horizontal and vertical on the box. That one is a straight vertical mark and a straight horizontal mark. This one for December 7, 1936, is just a plain old every day X. One is a cross and the other one is an X. When I look over these I notice that I have every variety of cross and X on these boxes. There is nothing I can identify them by by that cross on there except I know that I did place a cross on each box I handled.

That pink slip in the October one has nothing to do with this case.

I don't know what is on this film. I can not tell you whether that is the film for 1936 without the projector. I am not positive, but I think there is a date on the film. That date is right on the edge of one of the margins. I can read "Kodak Safety Film", on the margin. I can't read anything else, but I know there are markings all on there to designate the different groups of the checks, and I still think the date is on there. I can't see those marks,

but I know they are there. I think it took me five 1032 weeks to go through those films. I made a memorandum of what I saw as I went along. Assuming that

this is the film that I examined, the first check I found on there was in the amount of \$200. The maker is Henry Shoenstat. Ninety-five percent of the checks were made payable to cash. I didn't note the payee on my memorandum. I made a calculation when I was about halfway through and it ran about ninety-five percent up to that time. I don't think it changed. Then I quit making the calculation.

I can't say for sure, but I think Mr. Creighton is the first and only endorser on the first check, because I think the check was made to cash. That does not mean that it was not cashed by the corner grocer and then brought up to Mr. Creighton to cash for him. I did not see them presented. I don't know what day of the week that check was put through the bank. I don't know whether it was the 26th or the 27th, but I think my date is the date it was marked by the paying teller.

This film that we have been looking at bears both dates, October 26 and October 27. My notes do not say which day. I don't know what day of the week October 26 was. October 24 was the date of the check and it was put through the bank on October 26 or October 27. I know who the maker is. I talked to him. I didn't talk to the maker of all these checks. I would say I spent one week talking to makers of these checks.

There are four more checks on this film that we are talking about. I have the name of the payee for one of the checks. I can't say positively that the payee endorsed that check. I don't know how many endorsements were on that check that we are now discussing that were ahead of the endorsement of A. J. Creighton. One of the other four checks was payable to currency. I don't know who the other three were payable to.

I don't know how many endorsements were on the back of any one of these five checks. I think Mr. Creighton 1033 was number one, endorser on the back of these five checks. On the one to currency he was the only endorser—I remember that.

I haven't the date when I looked at this film, October 26, 1936. I don't know the day I made the examination. I was out there, not continuously. I was out there probably two weeks and I was away from there a while and then I went back again and in between time there were days that I wasn't there. My best judgment as to when

I was out there examining this film was January 26, 1940. It was not more than one day later and what I recollect about these checks is just a matter of memory excepting as I have it on my work sheets there. When I would see the check as I ran this through the projector I then and there made the notation or memorandum. I stopped the machine to look at the check as I made the notes. I saw the front and the back of each of these checks. The checks were run through in groups. I can give you a little illustration of how I knew I was looking at the front and back of something that was the same thing.

Let us suppose there were twenty checks in the group. I would run down the check say five, the sixth check would be A. J. Creighton. Then I would count how many there were there. Four. Then I would turn over to the front and count back five and the sixth and the next three would be A. J. Creighton. Sometimes, or, like the one I mentioned there, with a payee, you would tie it up closer by finding a payee who had endorsed the check.

I had a great many more than twenty checks. They took a picture of the front of all these checks first and then started in and took a picture of the back of all of them.

Q. How do you know they were kept in the same order when they took the front and then took the backs?

A. When I would find the endorsed check in the same spot on the front and the back, that was in order.

1034 Schoenstadt is the maker on this first check. It was not a company check that he signed as an officer of the company. I don't know who the payee was of that check. I don't know how many endorsements were on that check ahead of the endorsement of Creighton. I don't know whether that check was cashed as an accommodation for some merchant on the street or what happened to it. The aggregate that I testified to for the year 1936 was from October 26. That does not include any of the first sheet that I made the mistake on. I didn't look further back than October, 1936, so far as Mr. Creighton's business was concerned. I didn't go clear back and find out that he had been a customer of this bank for twenty years. His account that I saw did not go back that far. I didn't find out that he had opened and closed accounts there over the period of the last fifteen years. I have no record of my figures as to the amount of checks that were made out to currency in 1936 and endorsed by Mr. Creighton.

When I say ninety-five percent of the checks were made out to cash or currency I mean ninety-five percent in number of checks, not in amount of checks. Generally speaking, the smaller checks were not the ones made out to cash or currency. A great many large checks were made out to currency. I would say \$3,000 was the biggest check I found on all this bunch of film. I don't think I found one for five thousand. I don't recall finding any there of a customer from Kansas City that sent in a check for \$5,000. I didn't check to see how much money Mr. Creighton paid out. These checks that were identified by me as having been delivered to me by Mr. Creighton were a lot of checks payable to the Director of Labor and Collector of Internal Revenue on account of Social Security and Unemployment taxes. Mr. Creighton did not send me down to a brokerage house to check some brokerage accounts respecting some transactions. He gave me his bank statements; he didn't send me to any banks. He didn't give me authority to go to banks and get this information. The banks had a subpoena to produce the records to me. I have got a copy of that subpoena. I can produce it. I have it here. I don't know that any court order preceded that subpoena. When I presented that said piece of paper to the bank the bank turned over these records. It was necessary for me to refer to the memorandum I have been having in my lap as to what I have testified to here as to dates, amounts and names.

(Memorandum examined by Mr. Thompson.)

On October 26, 1936, I had seventeen checks instead of five. I had down there four of the larger checks and the fifth item is thirteen small checks. I didn't put down the names of the makers on those small checks. I don't know how many endorsements were on these thirteen small checks. I don't know whether Mr. Creighton was the first, second or third endorser.

This sheet here is what I would make as I looked at the film. Here are the four checks and here the thirteen. As to the thirteen little ones I just noted the amount and the endorser. There are three in there that are large.

Q. I notice you have on that memorandum October 26, 1936. Then over in a circle you have a question mark, and after that October 29, 1936. Then below you have October 29, 1936, and then a circle, and after that a question mark and October 26, 1936. Didn't you know which is which?

A. Yes. Do you refer to these?

Q. On your front sheet there. Does that indicate to you that you got those two boxes mixed up and you didn't know which was which?

A. No. No; that does not indicate that.

1036

Redirect Examination by Mr. Hurley.

A. J. Creighton was the last endorser on these checks that I have examined.

In my capacity as an agent of the Internal Revenue Department I have a commission that I carry with me (handing document to counsel). It is the usual and ordinary course of business that such authority be issued to me as an agent of the Internal Revenue Department.

Mr. Thompson: If the Court please, this is improper redirect, and furthermore, we do not question that Mr. Lawrason is an internal revenue agent.

Mr. Hurley: I am only going into it, if your Honor please, because of this question of the bank turning over the records to this man as an agent.

The Court: Overruled.

The Witness: I had no way of checking what Mr. Creighton paid out.

Examination by the Court.

I didn't put down anything that I couldn't read on those films. I had a projector. The bank furnished me with a projector and there is a place down in front of you there so that what I saw was as large as an ordinary check. This machine is the same type of machine as the Recordak. It is not the same one I looked through. The other one is a better machine.

(Reference was being made to instrument brought in on the evening of September 17, being the day that Mr. Shultz produced the films.)

1037 ARTHUR W. SCHAFFER, recalled as a witness by the Government, having been previously duly sworn, was examined and testified as follows:

Direct Examination by Mr. E. Riley Campbell.

I testified the other day in this matter. At that time I was sworn. I live at 4629 North Harding Avenue. My business is sales and service for Autovent Fan and Blower Company.

I have known an individual by the name of Roy Love about five or six years. I first met him at the Horse Shoe Restaurant. My first business transaction with him with regards to service was about five or six years ago. The last one was about May, last year.

Government's Exhibit 208-A and Government's Exhibit 208-B are blower equipment for an exhaust system. Looking at those exhibits, in the lower right-hand corner, I did see that signature signed by Roy Love, Lightning Construction Company.

The equipment specified on Government's Exhibit 208-A and B were delivered to the Bon Air Country Club. I saw it after it was delivered.

The signature on Government's Exhibits 208-A and B were signed about two days after April 28, 1939. Nobody else was present when Mr. Love affixed his signature thereon. All of that writing in the lower right-hand corner was placed there in my presence. That includes "Lightning Construction Company", "Roy H. Love".

That was written in my presence by the same party, Roy Love.

Mr. Campbell: I offer in evidence GOVERNMENT'S EXHIBITS X-208-A, B, C, D and E.

Mr. Thompson: We object to the documents as immaterial to any issue in this case, tending in no way to prove the taxable income of the defendant Johnson; no foundation laid showing that the items were paid for, or certainly that they were paid for by Johnson; or that they are not already duplicated by items now in evidence; the documents are hearsay as to all these defendants.

The Court: They may be received. The objections will be overruled.

(Said exhibits, so offered and received in evidence, were thereupon marked GOVERNMENT'S EXHIBITS X-208-A, B, C, D and E.)

Mr. Campbell: Then at this time, your Honor, I renew the offer of GOVERNMENT'S EXHIBITS X-208, X-209-A to X-209-D-1, and X-210-A, the same being records previously identified of the Deerfield Bank by the witnesses Lutz and McGinnis the other day; Exhibit 208 having upon it the signature of Roy H. Love.

Mr. Thompson: What is the change in the record over what it was when the Court rejected them the other day?

Mr. Campbell: The witness here has identified the signature of one Roy H. Love. That is, he seen him write the signature. That establishes a standard of comparison for the exhibits which your Honor holds in his hand, the signature card.

Mr. Thompson: If your Honor please, I thought the rule was well established that you can't put in documents for the sole purpose of setting a standard of comparison. If there are documents in evidence for other purposes they may be compared. There has been nobody put on the witness stand yet that says that the signature on that card

that is the basis for the admission of the documents
1039 your Honor now has before him is anything like or the same as the signature on these documents that have been presented. So we renew our objection we made the other day. No proper foundation has been laid for the receipt of these records.

Mr. Campbell: We are entitled to offer a standard for comparison. The whole matter is covered by the Code and by the decided cases. It is now a question of fact for somebody else to say whether the signature on the signature card is the same as the one on 208 just identified by this witness. Aside from that I would be entitled to ask the witness for his opinion. The standard of comparison has been fully laid.

The Court: Well, I will hear you at the recess.

Mr. Thompson: Move to strike the testimony of the witness as immaterial to any issue in this case, in no way connected up with the matter in this case.

The Court: Denied.

CHARLES O'NEIL, being duly sworn, testified as follows:

Direct Examination by Mr. Plunkett.

I live at 2643 Clybourne Avenue. We manufacture gaming supplies. I operate as E. M. O'Neil & Company. It has been a corporation since the first of January, 1939. I have, since the incorporation of the company, manufactured supplies for bookmaking establishments. We didn't exactly manufacture them. We had the work done outside. It was mostly printing and pencils, and different kinds of stickers. We do manufacture dice, gaming tables, roulette wheels. I have been in that business in Chicago fifteen years.

Government's Exhibit O-212-A to F, inclusive, O-213-A to P, inclusive, O-214-A to S, inclusive, O-215-A to O, inclusive, O-217-A to M, inclusive, O-218-A to S, inclusive, are records of my company. If these records are in order they cover the period of time from the 2nd day of February to the 7th of September, 1939.

I did have a business contact with an address at 3971 Milwaukee Avenue. These records reflect my business contacts with that address there if they are all at the same address. I have been to the address, 3971 Milwaukee Avenue myself, probably as often as there are bills here. It was an office building. The door I went through must have had the number on it, and I found it the first time. From then on I knew it. I don't know how many floors this building had. I used to deliver the stuff right at the door. I used to knock at it and somebody would come and open the door. There were stairs inside of that doorway. The name of the customer that ordered all of that equipment from me was John Morgan. That was the only name I knew him under. I met him quite a few times, about twice.

I notice on Government's Exhibits, O-214-B, C, D, et cetera, "List one, list two" and on the other invoices there is "list three, four, five, six, seven, eight, nine" and so on. Here (indicating) for instance, is "List number three". That is nineteen boys. Then underneath is "sixteen boys". The nineteen consisted of 100 each and the 16 boys was a list of 50 each. Boys are small packages of gummed stickers with the names of jockeys on them. I believe they paste them on the horses running in a race to indicate the jockeys.

I have stated that these are records of my company, kept in the usual and regular course of business. It is usual and regular in the course of my business to keep such records like this.

I have listed on Government's Exhibit O-214-S, an invoice under date of April 27, 1938, "Boston pencil sharpener, Number 1". "List Number 1" means order number 1. Our order number is up here (indicating)—and it goes with the invoice, and that is the way it would show "Order number 1". I am speaking of the customer. I don't know how many different order numbers our customer had—whatever is on these records.

Q. Wherever that list number appears, is that a separate order number?

A. That is how I considered it. It was done up that way. That is the way I received the order.

Q. Now, handing you Government's Exhibit O-216-B, an invoice under date of June 2, 1939. You will notice a long list of numbers there, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15. What is the meaning of those numbers on this invoice?

Mr. Thompson: If the Court please, before we go any further with this, I object to all of this as hearsay as to these defendants, until there is some connection shown; immaterial to any issue in this case. They have not even got an address of any defendant shown so far.

The Court: What is the purpose?

Mr. Plunkett: This is the address to which this stuff was delivered, and this address is that clearing house address on Milwaukee avenue where this witness says he delivered that equipment.

Mr. Thompson: We object to that statement.

Mr. Hess: There is no evidence of any clearing house; no proof of any clearing house at all.

Mr. Thompson: We have to have a little proof in this case besides counsel's promises. There is no proof of any clearing house in the city of Chicago.

1042 The Court: Overruled.

The Witness: Well, that is order numbers. That is the way the man ordered them.

With reference to these numbers in the delivery of the goods reflected on that invoice they were wrapped in separate packages.

Q. Was anything put on the top of the separate packages?

Mr. Thompson: We object to hearsay. Obviously this information must come from conversations with some unidentified person. They couldn't be delivered otherwise.

The Court: Overruled.

The Witness: List number 8 is for 33 boys. They were wrapped in a package and the number "8" was written on it. It was delivered to 3971 Milwaukee Avenue. I believe that is true of all of the entries on this particular invoice I am looking at. The number that appears over in the far lefthand column was put on the top of each package. They were all delivered to the same place. The same thing is true of all these invoices that contain a number in this column. That is also true of the invoices that contain the word "list" and a number following it. That is true of the invoices containing the word "Order" and a number following it.

The picture, Government's Exhibit O-6, is familiar to me. That is the place where I delivered this equipment. This is the place where they had a crap game.

Q. Where in that building did you deliver, if you did deliver this equipment?

Mr. Thompson: We object to that as leading and suggestive.

The Court: Overruled.

The Witness: That is north. Down here some-1043 where (indicating).

Mr. Plunkett: Q. Was there another door down there?

The Witness: Yes.

The Court: "Down here somewhere", indicating what?

The Witness: It was in that building. I am pretty sure, or one that was in the building next to it. There was a single door there.

Mr. Plunkett: Indicating the door farther in the building than shown in this picture?

The Witness: I am pretty sure.

The Court: Which side?

The Witness: The side to the south.

Mr. Plunkett: To the right of the picture as you face it?

The Witness: To the right of the picture.

The Witness: I couldn't state whether I have ever seen before the person on Government's Exhibit O-125.

I have seen the Morgan whose accounts I have identified

about twice, as near as I can recall. This picture is a somewhat bony structure, but whether that is the party I saw I couldn't identify him from that picture.

Government's Exhibit O-217-H, an invoice under date of July 20, 1939, is for 25 gross of golf pencils. The records show they were stamped "Bon Air". These pencils were delivered to that address. We would deliver to wherever the address is on there. I have to look on the bill. That was July 20th. These were delivered to 3971 Milwaukee Avenue. If anything is marked "Morgan" in here, or the address is 3971 Milwaukee Avenue they were all delivered to that address.

Mr. Plunkett: The Government will offer GOV-1044 ERNMENT'S EXHIBIT O-212 to O-218, with the inclusive alphabetical letters.

Cross-Examination by Mr. Thompson.

My place of business is 2643 Clybourn Avenue. I have been in business at that address since the first of February or the first of March, about '31. I have been in business in Chicago since the first of January, 1925. When I delivered these goods on these billings they usually used to shout downstairs. Somebody would come down and open the door. They would leave the door open and I would put the package inside and leave it there.

I am the proprietor of this company. I am also the salesman and delivery boy, and everything. I take the orders and fill them. I don't see the Mr. Morgan that I sold to. He is not one of the defendants here.

I know John M. Flanagan about fourteen years. I sold him goods for fourteen years, I guess. I sold him dice, lay-out, crap sticks, all of those things, roulette balls—different things used in gambling houses, and books for bookies.

I know Mr. Sommers. I think I have only known him about twelve years—maybe nine. I used to sell Mr. Sommers at his place that is called the Dev-Lin, and at a place called the Horse Shoe. I called there on Mr. Sommers personally. I delivered the goods to him personally. He paid for them. The dice that he ordered were identified in a particular way. I usually stamped them with a horse shoe, I think, or the name Dev-Lin. His dice, on the deuce side, between the two spots, had the word "Horse Shoe" or a

picture of a Horse Shoe, or the word, "Dev-Lin". I didn't sell dice so marked to anybody else except Jack Sommers.

I usually marked the dice sold to Johnny Flanagan "4020". That was on the deuce side, between the two spots.

1045 I have known Andy Creighton for thirteen or fourteen years, possibly fifteen. I called on him the last seven or eight years, as I recall, at Cottage Grove Avenue, at 119th Street and Vincennes Avenue, and at Western Avenue, 9730, I think it was. I sold Mr. Creighton dice, layout tables, different supplies for gambling houses. I delivered them to him after he bought them and he paid me for them. When he was at Cottage Grove Avenue I used to mark his dice "Southland". When he was at Western Avenue I marked them "9730", whatever the number of the Western Club was.

I never heard of the Club Select.

I don't know the 411 Club.

I don't remember ever selling the Proviso Club.

I sold Mr. Sommers supplies, roulette supplies and different things for gambling houses. I sold them pencils a wheel checks, poker chips, marker racks and markers and roulette wheels. When his roulette wheels got out of order I repaired them, and sold him black jack layouts—every thing that went with a gambling house.

I know Mr. James Hartigan, I guess about fourteen or fifteen years. I sold him something. I called on him at the Harlem Stables and Lincoln Tavern. When he was at the Lincoln Tavern I marked the dice "Lincoln". When he was at the Stables I marked them "Harlem". I delivered the goods to him when I got his order. He paid me for them. I sold him the same as the other places that you have asked me about, roulette wheels, and layouts, dice tables and dice, sticks and cages.

I know Reginald Mackay. I have sold him goods, at Cicero and Milwaukee, in the club known as the Casino. That is the same building they showed me a picture of. That is 4715 Irving Park Boulevard. This building is touched with three streets, Irving Park on one side and

Cicero on another side. It sets in the point of these
1046 three streets.

This fellow Morgan was not Mr. Mackay. 3971 is the address that Morgan gave me. This address on these bills where I delivered this stuff to Morgan is not the same

address as Mr. Mackay's Casino. The entrance to the casino used to be on Irving Park Boulevard, and then later on it was changed, and I guess they remodeled it, or something, and the entrance was on Milwaukee Avenue.

The Casino room went clear through the building.

Mr. Mackay bought from me paraphernalia of all kinds for gambling houses. I don't know who ran the Casino prior to Mr. Mackay. Mr. Mackay owned it as far as I know.

I knew a man named Garrett Meade. He used to be in the Casino prior to Mr. Mackay's running it. I sold him goods while he ran it. I sold supplies to all the gambling houses all over Chicago. I think there are more than eight people running gambling houses in Chicago. I sell gambling supplies to gambling houses all over the United States.

I have told you all about the persons to whom these supplies were delivered, as indicated by these exhibits here.

Mr. Thompson: We object to the document as having no connection with any of these defendants and being altogether immaterial to any issue in this case. And all the conversations relating to them as hearsay and to the documents as hearsay.

(The following proceedings were had out of the hearing of the Jury.)

Mr. Plunkett: They are offered for the purpose of corroborating the previous witnesses who testified the supplies were bought for them in these places named in the bill of particulars at that place; and offered further for the purpose of showing that this place could not possibly have been just an ordinary lay-out spot. There was enough supplies bought there to operate a dozen handbooks or maybe twenty-five.

(The following proceedings were had in the hearing of the Jury.)

Mr. Thompson: Continues the cross-examination.

I know the defendant William J. Kelly. He ran a gambling house and I sold him goods, all kinds of gambling supplies. I marked his dice D and D. He wasn't this man Morgan I sent these supplies to.

The Court: They may be received. Objections will be overruled.

(Which said documents so offered and received in evidence are marked GOVERNMENT'S EXHIBITS O-212-A to F; O-213-A to P; O-214-A to S; O-215-A to U; O-216-A to O; O-217-A to M; O-218-A to S.)

Mr. Hurley: At this time, if the Court please, I would like to offer in evidence Government's Exhibits X-180-1 to X-180-389, which are the deposit tickets of the Lawrence Avenue Currency Exchange at the Central National Bank, which have been heretofore identified by the witness Gus Nelson from that bank as being part of the records of the bank.

Mr. Thompson: I object to them as immaterial, they do not tend in any way to prove a taxable income of the defendant Johnson for the years involved in this indictment; have no bearing or probative value on any triable issue in this case, and they are hearsay as to each and every defendant in this case excepting the defendant Brown.

The Court: Objection overruled. They may be received.

(Said exhibits, so offered and received in evidence, were thereupon marked GOVERNMENT'S EXHIBITS X-180-1 to X-180-389.)

1048 FRANK J. CLIFFORD, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Hurley.

My name is Frank J. Clifford. I live at Park Ridge, Illinois. I am an Internal Revenue Agent almost fifteen years. I have been assigned to the Chicago office the entire time. My work as an Internal Revenue Agent, consists of the examination and verification of income tax returns filed, from books and records.

I completed the accounting course offered by the Walton School of Commerce—that was for four years. In 1049 addition to that I am a Revenue Agent for five years in industrial accounting. In the course of my work I had occasion to examine books and records.

In the course of my duties as an Internal Revenue Agent I was assigned to Government's Exhibits R-10, R-11, R-12 and R-13, being the individual income tax returns for William R. Johnson, for examination and audit. In the course of my duties I also had available Government's Exhibits R-6, R-7, R-8 and R-9, in evidence, being the returns for the years '32 through '35. I was assigned by Mr. L. H. Wilson, my superior revenue agent. He is a revenue agent also.

In connection with this assignment the first return I got was for the year 1937, and I called the office of Mr. Joseph Johnson and told him I had the return of Mr. William Johnson for that year and would like to get in touch with him. That would be the latter part of January, '39. A couple of days later Mr. Joseph Radomski, called me and made an appointment to go out to an office on South Green Street, where he had the records. I went out there—I think it was January 27, 1939, and examined what records he had, which were the farm and the real estate. The farm was cash receipts and expenditures, a summary sheet—ledger sheet—and a lot of invoices, paid invoices; for the real estate, was monthly statements submitted by Mr. Tavelin, cancelled checks of the two buildings, at Thorndale and Glenwood and Division and Dearborn. Those were accounts with the Northern Trust.

The reports on the real estate are copies of Government's Exhibits E-7, E-9, E-12, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-22, E-23, E-24, E-25 and E-26. The copies I saw of the exhibits you just read were for the year '37 only. I examined these books and records and compared them with the figures that were shown on Mr. Johnson's return.

1050 The farm records were for Sunny Acres Farm. I saw summary sheet which was, in effect, the ledger and pay invoices. I made an extract of the summary sheet of operating expenses, as well as the capital items purchased during that year, 1937. The operating expense items are in accordance with the return. I checked those Capital items is about one hundred and two thousand. The personal expense was about thirty-two thousand.

Q. When you say \$102,000,—that was the expenditure, was it?

A. Yes, sir. That was outside of the capital expenditures made during that year for improvements, cattle, machinery, equipment, and so forth.

There were no other records than those I have described submitted to me in Radomski's office. I asked if he had anything on the gambling income. He said no, the figure on that return was given to him by Mr. Johnson. He did not have any detail on that. I did later talk to William R. Johnson. When I got back to the office I called Mr. Joseph Johnson's office again and told him I would like to talk to Mr. William Johnson personally. We made an appointment to meet him in Mr. Joseph Johnson's office in the afternoon, February 3, '39. I met Mr. Johnson on

that day. Mr. Joseph Johnson and myself were present. I told William R. Johnson that Joe Radomski did not have any records on the gambling. I asked him what he had, and he said that all he had was a notation in a memorandum book showing the monthly total. I asked him if that was the only record he ever kept. He said no, he kept a daily summary, but at the end of the month he destroyed that. He did not have that little book with him. He told me that it was out on the farm. He would pick the figures out of it and send them to me.

I also asked him about the purchase price of the farm.

He told me one hundred and forty-five thousand.

1051 He said it had the residence and usual farm buildings, a few horses, which he admits giving away, and a few cows and hogs.

He further stated that he had made several improvements, bought new machinery, and so forth.

I don't recall anything further said at that time.

Several days later I went over to Mr. Joseph Johnson's office and picked up a piece of paper on which was shown the figures covering gambling for 1937. I received it from Mr. Joseph Johnson. I have that document.

The next time I saw the defendant, William R. Johnson, was in Mr. L. H. Wilson's office, March 27, '39, at which time a question and answer statement was taken from Mr. Johnson. Mr. Wilson, Mr. Riley Campbell, Mr. Johnson and myself, and Miss Wakefield, the stenographer, were present. Government's Exhibit O-207 is the question and answer form which I have referred to.

The next time I saw the defendant, Mr. William R. Johnson was November 3, '39, in the office of Mr. W. A. Summers, Special Agent. Those present at that time were Mr. Summers, Mr. Converse, Mr. Johnson, Mr. Wait and myself. That was Mr. Ed Wait, indicating the defendant Wait. I saw the defendant Johnson at that time. I called his attention at that time to the fact that there was no record on the books for the catering company of the Bon-Air land. He said "That is mine."

I asked him were the credits on the books of account his. He said those were advanced by me. That applies also to the account of Bud Geary. I asked him if he owned 9730 South Western Avenue. He said, "Yes". When I asked him as to the cost of Bon-Air and 9730, he referred me to Mr. William Goldstein. I asked him if he knew what the costs were. He said, "You get in touch with Mr. Goldstein. He will give you the details and the cost".

I made a notation of the conference. I can't recall what else now without referring to it.

1052 Mr. Thompson: I want the record to show that the witness is referring to a memorandum which we shall desire to see on cross-examination.

The Witness: That is all. There was a remark by Mr. Wait. I asked Mr. Wait if the credit shown on the books at the Bon Air was his, and he said it was. I had occasion to go to an address known as 3428 Lawrence Avenue the afternoon of October 31, '39. When I went out there it was for the purpose of getting in touch with Mr. Brown of the Lawrence Avenue Currency Exchange. When I got there I found it was closed. The young lady gave me Mr. Brown's home address, 4200 Hazel Street. So I went over there. There was no answer to my pushing on the button, so I left a note in Mr. Brown's mail box to call me up the next day. The next morning I got a call saying it was Mr. Brown. I told him I would like to look at the—

Mr. Thompson: We object to this as hearsay conversation and not binding on any of these defendants, except the defendant Brown, if he is identified.

The Court: Sustained as to the other defendants. Overruled as to the defendant Brown.

The Witness: The name of this Brown that I talked to was S. S. Brown. I had the name on the card.

1053 Q. Now, calling your attention to the computation you said that you made with reference to documents in the form of cash books and the summary sheets in Radomski's office, can you give us the exact figure of your computation on that date, Mr. Clifford?

A. For the capital items it is \$102,223; for the personal items it is \$3,238.14.

Q. Was there an item as to the personal items that you have referred to for each of these years, '32 to 1939?

A. These are for the years '37 and '38. There are no personal on any of the other years.

I was there at a time later than the date which I have testified I was out at Mr. Radomski's office, and that was in the forepart of May, 1939.

I talked with William R. Johnson before I went to Radomski's office. I met him in Mr. Wilson's office on March 27th. I told him I would like to continue with the year 1938 but as I didn't have the original return would it be all right to work from his copy and he said yes. Within a short time thereafter Mr. Radomski called me and we

made an appointment, but I wasn't able to get out there until the first part of May, 1939.

Q. Did you at that time make a computation as to the amount shown on the documents which you examined at that time?

A. Those which were not on the return. That is, the capital items and the personal items.

I got that information from the records that Mr. 1054 Radomski had, the summary sheets. Those were the books and records of the defendant Johnson. As a result of my examination of these documents and books I arrived at the figure, for the capital items, \$16,809.26; the items charged to the personal account were \$3,002.49. That was for the year 1938.

I first talked over the 'phone with a man named Brown on the morning of November 1, 1939. I got a call from this party who said he was Mr. Brown.

Q. What did he say and what did you say to him?

Mr. Thompson: We object. That is already in once.

Mr. Hurley: Not the entire conversation, as I recall it.

Mr. Thompson: Yes, but the Court has already confined it to Brown. He hasn't even identified the defendant Brown.

The Court: I will let him testify and it will be admissible only against Brown.

The Witness: I talked to this man who said his name was Brown over the telephone. When he told me he was Mr. Brown I asked him if he was the Mr. Brown who operated the Lawrence Avenue Currency Exchange, and he said he was, and I then told him that I would like to examine the records of the Lawrence Avenue Currency Exchange and he said, "Well, you can't very well do that because I have already destroyed them." I asked him to come down town anyway so that I could talk to him about the records generally and he made an appointment to come down at 1:30 in the afternoon of that day. At 1:30 I got a call from the man who said he was Mr. Brown, and to me it seemed to me like the same voice, who said he couldn't make it, he would be down the next morning at 9:30, and the next morning at about that time I got a call from a woman who said she was Mrs. Brown, said that he had gone out of town.

Mr. Hess: That is objected to, if your Honor 1055 please, not binding on any of them.

The Court: It may stand as against Brown.

The Witness: I did not, at any time subsequent to that, have an appointment with the defendant Brown.

I have made a computation and an analysis based on the exhibits X-178, X-179, X-181 and X-180-I to X-180-389, and the other evidence in the record, to determine the amount of currency delivered by the Central National Bank to the Lawrence Avenue Currency Exchange between the months of July, 1938 and September, 1939, inclusive.

Mr. Thompson: We object to that.

The Court: Overruled.

The Witness: I said that the amount shown by my computation is approximately one million.

Mr. Hurley: Q. And what is the amount?

Mr. Thompson: Now, we object. This is the question we want to object to. There is no proper foundation laid for any computation. It is immaterial as to any issue in this case. Tends in no way to show the taxable income of the defendant Johnson. Furthermore, you can't lump figures for fractions of three years, under any count of this indictment. It is hearsay as to every defendant in this case, and particularly as to the defendant Johnson.

The Court: Overruled.

Mr. Thompson: Furthermore, the witness has not yet identified the documents from which he is testifying.

The Court: Overruled.

The Witness: The amount was approximately \$1,289,000. I have not got the exact amount. That is just a computation I made.

I have made an analysis and computation, based on Government's Exhibits admitted in evidence, Government's Exhibits R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-13, 1056 being the income tax returns of the defendant Johnson for the years 1932 to 1939, inclusive; and Exhibits R-86, R-87, R-88, to and including R-106, inclusive, which are certified copies of the assessment list from April, 1929, to April, 1940, inclusive; and Exhibits E-7, E-9, E-12, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-22, E-23, E-24, E-25, E-26, E-27, E-27-A, E-28, E-28-A, E-29, E-29-A, E-30, E-30-A, E-31, E-31-A, E-31-B, E-32, E-32-A, E-33, E-33-A, E-33-B, E-34, E-34-A, E-35, E-35-A, E-36, E-36-A, E-37, E-37-A, B, C, D, E-38, E-38-A, E-39, E-39-A and B, being escrow agreements, E-41, which is the escrow agree-

ment of the Gary-Wheaton bank, and E-46 to E-66, inclusive, being the Bon Air and the Horwath records; E-71, E-72, E-77, E-78, E-81, E-82, E-83, E-84, E-85, E-86, E-87, E-88, E-89, E-90, E-91, and through to E-95, inclusive; E-97 to E-100, inclusive, and E-102, being the 1939 Bon Air expenditures, ledger sheets; and O-207; Exhibits X-1 to X138, inclusive; X-139 to X-164, inclusive; X-170, X-171, X-172-D, F, G, H, J, K, L; 173-V, W, T, Q, P, N, M, H, F, D, W, U, T, O, R, Q, P, N, H, G, E, C, F; X-174-A, C, D, E, F, H, J, L, M; X-178, X-181, X-182, X-183, X-184, X-185-A to V, X-191, X-191-A to X-191-QQQQQ, X-194, X-200 to X-207, inclusive, and other evidence in the record to determine the amount of net cash income reported by the defendant William R. Johnson for the years 1932 to 1939, inclusive.

Q. Can you state what that amount is?

Mr. Thompson: We object to that as improper, to lump all of these things into one mass. It is not competent proof under any particular count of this indictment; no proper identification of the evidence which the witness is to consider has been made; it is not a proper hypothetical question; it does not contain all of the elements required for such a question. It is otherwise immaterial, so far as the evidence in is concerned; in no way connected 1057 with the defendants.

The Court: Overruled.

The Witness: The total amount of income reported over that period was \$1,188,041.85. Adding to that the amount that he had on hand as of the beginning of 1932, the total is \$1,256,041.85.

Based on those exhibits which I have enumerated and the other evidence in the record, I have made a computation as to the expenditures of the defendant, William R. Johnson, for the years 1932 and 1939, inclusive.

Q. Will you state what that computation is; what the amount is?

Mr. Thompson: We object to that on the ground that you cannot lump expenditures over a period of ten years or so. There is no identification of this requested answer to any particular count of the indictment in this case; that the offered proof will not prove, or tend to prove the taxable income of the defendant Johnson for the specific years 1936 or 1937 or 1938 or 1939, which are the only years covered by the indictment; and proper founda-

tion has not been laid, and the question is not properly stated; the hypothetical question does not contain all of the elements required in such a question, and it does contain elements which are improper to consider in such a question.

The Court: Overruled.

The Witness: The total amount of those expenditures was \$1,730,391.39. That is for the period 1932 to 1939, inclusive.

I have made a computation from the figures which I have just given as to what the excess of expenditures over net cash income reported was over that same period of time.

Q. Will you state what that amount is?

Mr. Thompson: We object on the grounds already stated to the last two questions on these computations.

The Court: Overruled.

1058 The Witness: The amount of such excess of expenditures over income is \$474,349.54.

With the exhibits just a moment ago enumerated, and the other evidence in the record, I have made a computation to determine the total amount of gross income of the defendant Johnson for the calendar year 1936.

Q. What is the amount, from your computation, of the gross income of the defendant Johnson for the calendar year 1936, according to your computation?

Mr. Thompson: If the Court please, there is no identification of any document which is being used by the witness, or any of the evidence that has been produced here in court from which he has made his computation. We object that the question is not in proper form, the proper elements have not been stated, and the elements being included in the general character of the question are not proper to be considered.

The Court: You are making reference to those exhibits and the evidence in the record?

Mr. Hurley: He used those as a basis for his computation.

The Court: Overruled.

The Witness: \$547,942.38.

Mr. Hurley: Are you able to state the amount of net income of the defendant Johnson for the calendar year 1936, according to your computation, based upon exhibits I have enumerated and the other evidence in the record?

Mr. Thompson: Same objection, your Honor.

The Court: Overruled.

The Witness: The income I gave you, Mr. Hurley, was the net income, subject to tax after allowance of all statutory deductions.

Mr. Hurley: So that your previous answer was on the basis of net income rather than gross income?

1059 A. That is right.

I am able to state the amount of tax still due by the defendant Johnson to the United States for the calendar year 1936, after allowing credit for the amount of tax shown on defendant's tax return for the year as shown by Government's Exhibit R-10, in evidence.

Q. And what is the total amount of tax still due the United States, according to your computation, for the year 1936?

Mr. Thompson: We object to the question on the ground that the proffered hypothetical question does not contain the essential elements of such a question; no proper foundation has been laid for the answer to the question by the witness.

The Court: Overruled.

Mr. Thompson: And elements are being injected into the question which are not pertinent to the income for that year, and elements are being omitted which are essential.

The Court: Overruled.

The Witness: \$268,041.09.

I have made a computation based on the list of exhibits which you have read to me and the other evidence in the case to determine the total amount of gross income for the defendant Johnson for the year 1937. I am able to state the amount of the net income of the Defendant Johnson for the calendar year 1937 according to my computation.

Q. What is that amount?

Mr. Thompson: For the same reasons we have assigned as to the similar question for 1936 we object to this question.

The Court: Overruled.

The Witness: \$1,047,129.77.

I am able to state the amount of the tax still due by the defendant Johnson to the United States for the calendar year 1937, after allowing credit for the amount of

tax shown on the defendant's return for that year, 1060 Government's Exhibit R-11 in evidence.

Q. And what is the total amount of tax still due to the United States, according to your computation for the calendar year 1937?

Mr. Thompson: On the same ground that we objected to a similar question that was for 1936, we object to this one.

The Court: Overruled.

The Witness: \$588,064.20.

I have made a computation based on the exhibits I have heretofore had read to me and the other evidence in the case to determine the total amount of net income of the defendant Johnson for the calendar year 1938. I am able to state from that computation the amount of net income of the defendant Johnson for the calendar year 1938, according to my computation.

Q. What is that amount?

Mr. Thompson: On the same grounds we objected to a question of like import with respect to the year 1936, we object to this question.

The Court: Overruled.

The Witness: \$935,353.80.

I am able to state from my computation the amount of tax still due by the defendant Johnson to the United States for the calendar year 1938, after allowing credit for the amount of tax shown on Defendant's return for that year, being Government's Exhibit R-12 in evidence.

Q. What is the total amount of tax still due the United States according to your computation for the calendar year 1938?

Mr. Thompson: On the same ground that we objected to a similar question for the year 1936, we object to this one.

The Court: Overruled.

The Witness: \$596,521.95.

I have made a computation based upon the exhibits 1061 which were enumerated heretofore and also the other evidence to determine the total amount of the net income of the defendant Johnson for the calendar year 1939. I am able to state from that computation the amount of the net income of the defendant Johnson for the calendar year 1939, according to my computation.

Q. What is that amount?

Mr. Thompson: On the same ground we have objected

to a like question for the year 1936, we object to this question.

The Court: Overruled.

The Witness: \$961,504.77.

I am able to state from that computation the amount of tax still due by the defendant Johnson to the United States for the calendar year 1939, after allowing the credit for the amount of tax shown on Defendant's return for the year, being Government's Exhibit R-13 in evidence.

Q. What is that amount of tax still due to the United States according to your computation for the calendar year 1939?

Mr. Thompson: On the same grounds we objected to a like question for 1936, we object to this question.

The Court: Overruled.

The Witness: \$520,497.10.

Cross-Examination by Mr. Thompson.

In making my calculation I am assuming that Mr. Johnson had on hand on December 31, 1931, a certain stated sum of money, \$68,000. \$68,000 was all the cash he had on hand on that day, according to my assumption, per the testimony of Mr. Wilson. I ignored the \$10,000 that Mr. Wilson testified Mr. Johnson said he had in his bankroll at that time.

Q. You had before you at the time you were making these examinations, all of Mr. Johnson's returns from 1932 on, and also the returns of Mr. Johnson for the prior years, didn't you?

1062 A. I don't think I referred to them.

Q. You had them before you?

A. I don't know. I am not sure that I did. I have seen them. I don't know whether I had them before me. I don't recall having his '31 return. I don't recall having his '28, '29, '30 and '31 return.

Q. You had his '27 return, didn't you?

A. I don't recall any of those returns that I used in connection with this computation.

Q. I did not ask you whether you used them. You had them before you, didn't you?

A. I have seen them; yes. I have seen those returns.

I have not seen any prior to '27. I don't know that they have been destroyed by the Government. I didn't try to get the returns 'way back to the time Mr. Johnson com-

menced making his return. I don't know if my chief, or someone in the department did.

Q. Did you note from the returns prior to 1932 that Mr. Johnson had reported a very large income over a period of some ten years, each year?

A. The returns for '27 through '31 inclusive, show reasonable amounts, yes. I have never totalled them.

Q. You never made any effort to determine whether or not Mr. Johnson had disposed of all this income and had only \$68,000 left in 1931?

A. It was my understanding that he had disposed of it in '31.

Q. You understand that from what Mr. Wilson testified to?

A. No, from the revenue agent's report.

I have taken the exhibits and the testimony of figures and have used those in computing the additional tax. I com-

puted \$13,115.00 expended with respect to acquiring 1063 his interest in the property at 9730 South Western Avenue for the land, and \$22,400.00 for the building.

I did not accept the fact that \$22,400.00 was paid for the building by Mr. Skidmore, as testified to by Mr. Nadherny.

Q. You ignored it, then? You did not accept it?

A. I relied on Mr. Johnson's statement that he owned the property. He told me that he owned the property, yes, sir.

I am not using my own testimony as part of the testimony on which I made my computation, except I am using Mr. Johnson's statement he made to me.

Q. And you ignored the testimony of the architect that Mr. Skidmore paid him \$22,400?

A. Mr. Nadherny's statement was that he thought he was paying it as the agent for Mr. Johnson.

I did ignore the testimony of Mr. Nadherny that Mr. Skidmore paid the \$22,400.00. I did ignore the testimony of Mr. Goldstein on cross-examination that Mr. Johnson acquired one-half of this property and that Mr. Skidmore acquired the other half of it?

Q. You took the top figure always in making a computation. Whatever the evidence showed against Mr. Johnson you took the top figure?

A. Not in all cases.

Q. Which case did you take other than the top figure?

A. I think Mr. Nadherny said he got the eight-hundred dollar fee. I did not include that in there.

Q. In connection with what?

A. Building the building at 9730.

Q. Well, he said Mr. Skidmore paid him that, didn't he?

A. Yes. He said Mr. Skidmore gave him the money.

1064 I used the amount of \$19,000 in my calculations as the amount spent by Mr. Johnson in acquiring the Dells property.

I charged \$95,056.73 to Mr. Johnson as the expenditures in acquiring the real estate now known as the Bon Air property. The items that made up that amount were the original purchase price of the Bon-Air proper, \$75,000; then that which is represented by Exhibit E-32, \$7600; Exhibit E-33, \$8,456.73; E-34, \$4,000. That is all the Bon-Air property.

The \$60,000 I show as the Curran farm, that is a different subject. I did not include that as part of the Bon-Air, but as part of the expenditures.

Q. All right. Did you include any other items out there in the Columbian Gardens whatever?

A. Yes. There is one for the Columbian Gardens Addition, of \$17,500.

Q. What else?

A. That is all.

The \$7500 deposit that Mr. Goldstein paid on the contract for the purchase of certain other property from the Evanston Bank in 1939 is part of the \$17,500, \$10,000 with the Chicago Title Co., \$7500 with the Evanston Bank. I included that. I did not use those figures solely on the testimony of Mr. Goldstein. I had the records of the Chicago Title and the testimony of the bank man as to amounts. As to the identity of Mr. Johnson as the payer of the sums I used Mr. Goldstein's testimony exclusively.

Q. What ground did you use as the expenditures of Mr. Johnson on the Division and Dearborn property?

A. In addition to those which are shown on his return as capital expenditures, I used the Air Comfort figure of fifteen thousand, three hundred and ninety.

Q. Is that all you used?

1065 A. In addition to those which are reflected on his return.

Q. What are shown on his returns as capital expenditures?

A. Classified as improvements and furnishings.

The Witness: I did include in these computations capital

expenditures for acquiring of property. I have the acquisition of the equity. I charged \$16,000 to Mr. Johnson for that.

Q. You used Mr. Tavalin's estimate that it was somewhere in the neighborhood of sixteen thousand, is that right?

A. I think he said sixteen thousand. That was my recollection.

I used whatever he said on the subject.

I next used the payment of the second mortgage. I charged him with \$45,000 for the payment of the second mortgage. I charged him the face value of the mortgage, \$45,000.

Q. You gave no consideration to the testimony that he bought part of the notes at a discount, did you?

A. That was not clear. I had no way of telling what the amount was.

So I took the top figure of \$45,000. I added on there the payment of the first mortgage. I charged him with \$150,000 for that and the delinquent taxes which were capitalized. I did not capitalize those. I took the figures of Mr. Brantman as being the total of the delinquent taxes. I used that as the capital investment and put them on there as an expenditure. I charged \$15,205.48 for that. That is only 75 per cent of the total delinquent paid.

Then the Lincoln Park Improvements and furnishings. They are spread over a period of years. Those appear on the return with the exception of the Air Comfort expenditure. The apartment furnishings and so on, that all appears on his income tax return.

The items that constitute the total that I calculated 1066 as the expenditures of Mr. Johnson for the year 1936, are income taxes, payment of the first mortgage, Lincoln Park Building improvements and furnishings, the Thorndale and Glenwood improvements, or furnishings, and the purchase of the first piece of the Dells property. The total that I have for his expenditures for the year 1936 is \$84,820.47. The total income Mr. Johnson reported for the year 1936, after giving a credit for depreciation when he arrived at his total cash income, was \$173,425.28. I am just adding that as I go along. In other words, according to my computation he spent \$84,000 in round figures in 1936 and reported an income of \$170,000 odd.

The items that are used in my calculation of the expenditures for 1937 are income taxes paid, Lincoln Park improve-

ments, Thorndale-Glenwood furnishings, the second Dells property, purchase of Albany Park Bank Building, purchase of the land and construction at 9730 South Western, purchase of the Sunny Acres Farm, and the capital items, improvements which were put on the farm after he got it, such personal expenses as were shown on the farm books, and the DuPage real estate. The last was the DuPage farm that was adjacent to the Sunny Acres place, \$16,050. I charged him with the cost price of the Albany Park Bank Building. That was on Goldstein's testimony, and I charged him the full amount on 97th and Western that was spent by anybody, so far as any testimony is concerned. The total I charged on 97th and Western was \$35,515.00. The second payment on the Dells I charged him the amount Goldstein testified to, \$9,000. The capital expenditure on farm, for 1937, was \$102,223. The items that made up the \$102,223 are building improvements, \$74,933.41; cattle, \$10,946.99; chickens, \$103.75; small tools, \$1,332.82; machinery and equipment, \$13,942.63, auto truck, \$583.50; harness \$379.50.

He didn't sell any cattle that year. I don't know that 1967 he sold any chickens.

Q. Well, you didn't take the cash receipts for the year and deduct them from disbursements, where they were applicable, did you?

A. Where they were applicable, yes. The next year when he sold cattle I did deduct them, deduct the amount, cost price of those cattle sold.

Chickens are shown in his profit and loss farm statement. The loss he deducted covering the operation of the farm includes such figures. That is all shown on his income tax statement.

The items of expenditure for 1938 are income taxes for the year '37 and in '38 the Lincoln Park Building improvements, Thorndale-Glenwood furnishing, Sunny Acres capital item, personal expense, Sunny Acres, Bon-Air property purchase, Bon-Air Catering advances, and the loan to William R. Skidmore.

Q. Now, the capital item for 1938 of the farm? I think you said they were sixteen thousand and some odd dollars?

A. I subtracted from that the cost of the cattle sold in '38.

Q. What were the cattle items for '38?

A. In here it is, \$12,375.27, which is the total he purchased, and makes the cost of the cattle as giving him a credit for that.

The items which make up this 16,000 are cattle purchased, \$8,519.14; new construction and improvements, \$4,420.82; miscellaneous items, \$3,869.30. That makes the \$16,000 odd.

Q. Now, as to the expenses out at the Bon-Air, you assumed that he made all of those?

A. He told me he did.

1068 I am using my own testimony there as the basis of that computation.

As to 1939, the capital expenditures that I say Mr. Johnson made are income taxes paid, Lincoln Park building improvements and furnishing, capital expenditures for the farm, advances to Bon Air, both as per the book record and those not on the books, purchase of the Curran farm, and the deposits in connection with the Columbian Garden real estate.

Q. What about the item of Bon Air shown by Exhibits E-42, 43, 44, and 45, ledger sheets of Albert Pick & Company, how much did you charge as expenditures of the Bon Air Catering Company for 1939?

A. You mean in connection with the Bon Air? You said the Bon Air Catering Company. I didn't charge anything on that. But I charged in my expenditure statement for Mr. Johnson, \$5,577.30. I eliminated all which were shown as having been paid by the Bon Air Catering Company.

That is, I eliminated the items that were on the Bon Air Catering Company books showing that they had been paid on these sheets. I included \$3,000 that was shown on Mr. Reedy's statements. I also included all of Mr. Nadherny's architect fees, notwithstanding his testimony that Mr. Skidmore paid part of them.

I included in Mr. Johnson's income for 1936 all of the one hundred dollar bills that came from the Lawndale Currency Exchange. That is, I included all of the deposits made by the Albany Park Currency Exchange in Mr. Johnson's income for that year, with the exception of those which were made on certain paydays which Mr. Marcus said he might have occasion to redeposit. If there were any such days I didn't include those.

1069 For '36 there were no such days. I added into

Mr. Johnson's income for 1936 the currency exchanged at the Northern Trust Company. That is, all the money that was exchanged over at the Northern Trust Company, according to this testimony, I put as part of

his income. I assumed that all the checks cashed at the Northern Trust Company were Mr. Johnson's income. Checks cashed at the Albany Park Currency Exchange. Gamblers' checks. Those marked on those sheets as gamblers' checks. The same way with the Northern Trust Company. Those that were shown as having been cashed by Mr. Jack Sommers. Gamblers' checks. Not all checks. Mr. Marcus had his records marked in such a way that those gamblers' checks could be distinguished from all the other checks. So I took only the gamblers' checks. I distinguished the gamblers' checks that were on Mr. Marcus' records by the marks which he had opposite those checks, J. S., M. D., No. 1, 2, 3, H. S., D. D., K. L. I calculated those all as gamblers' checks. I added all of them together and said that is Mr. Johnson's income.

All checks cashed by Mr. Creighton in 1936 at the Mid City Bank to which Mr. Lawrason has testified were added to Mr. Johnson's income. That whole string of checks that Mr. Lawrason testified about yesterday that he saw through this machine that had A. J. Creighton on the back of them for 1936 was added to Mr. Johnson's income. That is all for '36.

That adds up to \$533,216.94, and I gave him credit for what he returned as income taxes. I gave him credit for the gross income from gambling, \$148,300, in that year. I calculated that all this other income that I have been talking about was income from gambling. In making this calculation I assumed that Mr. Johnson owned all of the gambling houses that have been named in this testimony and that all the checks cashed by any of these defendants were checks representing income of Mr. Johnson and 1070 that all the currency exchanged by any defendants represented income of Mr. Johnson. That is the way I arrived at that figure.

For 1937 I added to Mr. Johnson's income the same kind of items and all the one-hundred dollar bills that the Roosevelt Agency sent over to the Lawndale Currency Exchange that was mentioned in that testimony; the currency deposited by the Albany Park Currency Exchange, with the exception of those days which were deposited on such days as could have been pay days, according to Mr. Marcus' testimony, and I eliminated those. I charged him up with \$87,100. for that; all currency testified to here that was exchanged at the Northern Trust Company. I

took the estimate that the Gentleman testified to here as the amount. I took an estimate of \$100,000 a year. I didn't pay any attention to the cross examination where he said that it might have been \$90,000, \$80,000, some other figure. Checks cashed at the Albany Park Deposit and Exchange. Those were the gamblers' checks that were cashed there. I mean all these J. D.'s and D. D.—J. T.'s. That amounted to \$623,690 in that year. I added all that in to what Mr. Johnson's income was for that year. All of the checks that were found at the Mid City which had the endorsement of Mr. Creighton, per Mr. Lawrason's testimony—I added that to Mr. Johnson's income. That is all for the year 1937. This makes a grand total of \$1,056,844.59. I allowed him the credit for what he reported gambling that year and I found that he still had a net income on which he had not reported of \$798,469.59.

Q. So that in 1937 you added up all of the checks that were cashed by all of these defendants here as part of Mr. Johnson's income, is that right?

A. Whatever I have stated. I don't know whether I have got them all over there or not.

1071 All of the cash exchanged by any of these defendants was income of Mr. Johnson and all of the hundred dollar bills that were delivered out of a bank down to the Lawndale Currency Exchange, I counted that as Mr. Johnson's.

For 1938 the items composing the income as I calculated it were hundred dollar bills of the Lawndale, currency exchanged at Albany Park, currency exchanged at the Northern Trust, checks cashed at the Albany Park, checks cashed at the Mid-City, checks deposited at the North Shore, checks deposited at the Central National; those latter two by the Lawrence Avenue Currency Exchange.

I charged \$20,000 in \$100 bills which were ordered out of the downtown banks by this Roosevelt Agency and there was a further statement that they got those for Mr. Flanagan. That is the basis of my figures. I am calculating all those \$100 bills as a part of Mr. Johnson's income for 1938. No one that I know stated that he got the bills.

Q. Now, what about the checks that you added to his income? Was that all of the checks cashed?

A. The Lawrence Avenue Currency Exchange.

Q. That is the Marcus exchange, isn't it?

A. Yes, sir.

Q. All checks cashed by J. D., M. O., and what have you, on them; is that right?

A. Yes, sir. Mid-City—that is Mr. Creighton. All of the checks cashed that bore the endorsement of A. J. Creighton were added to Mr. Johnson's income. Gamblers' checks deposited at the North Shore and the Central National by the Lawrence Avenue.

Q. How did you figure out that they were gamblers' checks deposited at the North Shore and the Central National?

The Witness: The total of the checks which 1072 cleared through Johnson's account on the Lawrence Avenue books, as per the testimony of Mr. Bagshaw.

Q. Through the Johnson account?

A. Reserve for uncollected funds. That is Mr. Bagshaw's testimony.

Q. You are assuming that is Johnson's account?

A. Oh, no; he stated that.

Q. I know, but you are assuming—

A. \$1,100,000.00.

I took that to be William R. Johnson, the defendant in this case. I don't think that Mr. Bagshaw stated that. I didn't understand him to say that it might be "Miss Johnson." He might have. That \$1,100,000 was 74.87% of all the checks that were deposited by the Lawrence Avenue Currency Exchange. I used that percentage in separating the gamblers' checks from the checks that were deposited at the two respective banks during both of those years. For '38 at the North Shore, they total \$66,305.29; at the Central National, the total is \$147,105.71, or a total of \$213,411.06. I took the total of this year in this computation of mine of 74 point something, and calculated the amount that belonged to the gamblers. Then, anything that belonged to the gamblers belonged to William R. Johnson, and that is included in my computation. That is all for 1938.

That makes a grand total of \$939,807.12.

Q. That includes all of the money that you think that all of these defendants either exchanged, or all of the money that was received in the cashing of checks by all of these defendants that operated these various gambling houses; is that right?

A. Whatever these records show, yes.

For the year 1939 the items which composed Mr. Johnson's income, according to my computation, are the 1073 checks cashed at the Washington Park Currency Exchange, ran by Mr. Snoddy. Mr. Creighton cashed checks there—he said "Forty to fifty thousand." I used forty. The currency exchanged at the Northern Trust Company. I used just \$40,000 for that, because Mr. Denning said \$40,000 was the estimate. I took the estimate. \$886,499.30, which is the balance of the \$1,100,000, which was not considered in 1938, of the gamblers' checks that went through Lawrence Avenue. I took all of this reserve for uncollected funds which Mr. Bagshaw said was on the Lawrence Avenue books and I called that the William R. Johnson account, and that was added to his income for 1939, less what I have taken out for 1938. I called that part of Mr. William R. Johnson's income. That is all I put in there for 1939.

The grand total is \$966,499.30.

Q. Are there any other sources of information that you have used for the computation and calculations that you have made, other than the exhibits which were enumerated by Mr. Hurley in his questions to you?

A. Exhibits and the testimony in the event there were no exhibits.

Q. You used other evidence, did you?

A. Yes, sir.

Q. What evidence, other than the exhibits enumerated, did you use to make your calculations as to the expenditures for 1936?

A. None—Mr. Goldstein's testimony on the Dells.

That is all, other than the exhibits.

Q. What items of evidence or testimony did you use for expenditures for 1937, other than the exhibits enumerated?

A. Mr. Goldstein on the second part of the Dells; Mr. Goldstein on the bank building; Mr. Goldstein on the 1074 land at 9730 South Western; Mr. Nadherny on the building at 9730 Western; Mr. Goldstein on the DuPage farm, the one adjoining Sunny Acres.

Excepting as to the one statement of Nadherny about the building at 9730 Western Avenue, all of the rest is Goldstein plus the exhibits.

For 1939, in addition to the exhibits I used the state-

ment of Mr. Johnson of March 27th, about the loan to Skidmore and Mr. Goldstein on Bon Air. Besides that written statement read into the evidence is that testimony of Mr. Johnson's statement to me, and Goldstein. I used my testimony on the farm capital expenditures. That applies to '37, also.

In '39, in addition to the exhibits enumerated, I used the testimony of Mr. Goldstein on the Curran farm and on the Columbian Gardens. I think the rest of them are covered by exhibits.

Q. Just Goldstein and the exhibits, plus your testimony of what Mr. Johnson told you in an interview?

A. I don't think that applies to '39.

Q. You don't think that applies to '39?

A. No.

Q. Just Goldstein and the exhibits, then, in '39?

A. Yes.

In addition as to the 1936 income, other than the exhibits enumerated in making my calculations, I used the testimony of Mr. Denning, the Northern Trust Company man on the currency exchanged, Mr. Lawrason's testimony, and that is evidenced by the record also. That is for 1936—everything else is per exhibit.

Q. Now, what did you use as the testimony to connect the currency exchanged at the Northern Trust Company with the defendant William R. Johnson?

A. I do not know of any specific testimony of 1975 any one person. It is just the general testimony as to the ownership.

Q. Oh, you determined that Mr. Johnson was the owner of whatever produced this cash, is that right?

A. This computation is based upon that fact.

Q. Upon that assumption?

A. On that assumption.

Q. What testimony in this record did you use in your calculations to determine that the checks cashed by Mr. A. J. Creighton were part of the income of William R. Johnson in 1936?

A. I could give you the same answer for that also; that is, general testimony.

I assumed that all the checks cashed by A. J. Creighton in 1936 were income of William R. Johnson. I can not point to any particular item of testimony that I used for the basis of that assumption right now.

Q. Now, what evidence did you use in the evidence as the basis for your calculation that the checks cashed in 1936 at the Northern Trust Company by Mr. Jack Sommers were part of the income of Mr. William R. Johnson?

A. I think I could give you the same answer to that one also.

I can not point to any particular bit of testimony in this record which I used as the basis for that assumption.

Q. What was the basis for your assumption that the checks cashed at the Albany Park Currency Exchange in 1936 were part of the income of William R. Johnson?

A. I would give you the same answer.

Q. And if I asked you with respect to each of the items that you used in calculating the income of William R. Johnson for the year 1937, 1938, and 1939, respectively, you would give me the same answer in substance, would you?

A. With the exception of '39, the testimony of the two people at the Lawrence Avenue Currency Exchange, Mrs. Koop and the janitor who saw Mr. Johnson in there dealing with Mr. Brown. Otherwise it would be just the same.

Q. You then assumed in making your calculations for 1939 that two witnesses have testified that Mr. Johnson dealt with Mr. Brown in 1939, have you?

A. That would be one specific instance I could recall in that testimony.

Q. Do you know what particular dealings you are considering as the basis of your assumption with respect to transactions with the Lawrence Avenue Currency Exchange that Mr. Johnson had dealings with him?

A. I do not know the nature of the dealings from the testimony.

Q. All right, your assumption then of all these facts with respect to these various items which you have added together to make up Mr. Johnson's income taxes, or income for these four years, are as you have stated them, are they, the general record without any ability to state any specific thing, excepting this one thing you have last stated, is that right?

A. I do not recall any right now.

Q. Can you tell me on what basis you assumed that the checks cashed and the currency received by John Flanagan at the Lawndale Currency Exchange was the property and income of William R. Johnson?

A. Just general ownership of all the places.

Q. Just general ownership of all the places?

A. Yes, uh-huh, yes, sir.

Q. Just what places did you assume that Mr. Johnson owned in making your calculations?

1077 A. Quite a number in the testimony. I don't just recall all the names.

I assumed that he owned the Southland Club, the 119th and Vincennes, the Select Club, and the Harlem Stables. I did not take into consideration the Harlem Club—I don't remember of ever having heard of that. I have read the indictment in this case. I have forgotten that part of it. I don't know anything about this Harlem Club that was out in Maywood. I included the 4020 Club as one owned by Mr. Johnson. I do not recall the bookie up on School Street. I do not recall the Mayfair Club. I included the Northland Club. That is if there was any money came from that in these figures I would have included it. I have nothing to show that any money came from that Northland. I do not know who ran the Northland Club. I don't know if it ever ran. I know there was some party here testified that some work was done up there. That is all I know about the Northland. I heard some carpenters worked up there—that is all I heard about it. That is all I know about it. I don't know anything about the Proviso Club.

Q. What about the Lincoln Tavern, did you include that in Mr. Johnson's property?

A. During the year of operation, whatever year it was.

Q. What?

A. If they operated in '36, I do not know when it operated.

Q. I mean in these four years we are talking about now?

A. If it operated, yes, sir.

I don't know whether it operated in the four years.

Q. You included the Harlem Stables, I think you said, as one of the properties owned by Mr. Johnson, is that right?

A. There was some checks, records at the Albany 1078 Park, showing that checks came from the Harlem Stables. Those checks would be included in my computation.

Q. As Mr. Johnson's income?

A. Yes.

Q. Did you assume in your calculations that Mr. Johnson owned the Club Moderne up here by Glencoe or Highland Park somewhere?

A. I do not know about that one.

Q. Did you assume that Mr. Johnson was the sole owner of the Bon Air Country Club in your calculations?

A. I took that from what he told me, not an assumption there.

I did assume it in my calculations, based on my own recollection of what he told me.

Q. Did you assume that Mr. Johnson owned the Service Bureau, or whatever you may call it, from which the service was sent out to bookies over this telephone system that was talked about here in evidence?

A. I am not familiar with that testimony.

Q. You did not assume that he owned that network of telephones, then?

A. I did not have any assumption at all on that. I don't know.

Q. Can you point out one item of testimony on which you based your assumption that Mr. Johnson owned the 4020 Club?

A. I can't recall any now.

Q. Can you point to a single item of testimony on which you based your assumption that Mr. Johnson owned the Southland Club?

A. No, I can't think of one.

Q. All you would answer as to each of these clubs, if I asked you, would be that you just took the general 1079 testimony, is that right?

A. There was one lady said he had something to do with the Horse-Shoe, raising the limit out at the Horse-Shoe. I can't think of that one.

That would be one specific item I can now remember. I wouldn't say that I used that as a basis for my calculation that Mr. Johnson owned the Horse-Shoe Club, because this woman said she talked to him about raising the limit. I didn't give any consideration to her statement about raising the limit. I don't think that I did give any specific consideration to it.

Q. Can you name now one single item of testimony that was not included in these exhibits that were enumerated by Mr. Hurley in his question as the basis of your assumption that Mr. Johnson owned any of these gambling clubs?

A. Nothing specific, just general.

Q. Now, Mr. Clifford, assuming that Mr. Johnson did not own these gambling houses, he has returned all of the taxable income that he had for the year 1936, hasn't he?

A. No. You got your expenditure statement which showed he spent more than he reported.

Q. In 1936?

A. That is only one year out of the whole business.

Q. You do not lump people's income when you check their return for any particular year, do you?

A. I take into consideration, I try to take into consideration in making a net worth statement as many years as I can get.

Q. All right, let us go back, 1937, 1938 and 1939 had not happened when Mr. Johnson reported his income for 1936, had it?

A. No, sir.

1080 If I eliminated the testimony that Mr. Johnson owned these gambling houses, according to my calculations, he had no taxable income for 1936 which he had not reported.

Q. In 1937 did he report all of the income that he had earned, assuming he did not own these gambling houses?

A. In that year he reported an income of two hundred and sixty-four thousand, and he spent four hundred and sixty-five.

That would assume he did not report the full income. Assuming that he spent \$465,000 in 1937, then the income he reported was not sufficient to take care of the expenditures in that year.

Q. What about the excess income that he reported for 1936, '35, '34, '33 and '32, and the seventy-eight thousand dollars he had in his possession in '31?

A. For my figures, they do not include any personal expenses at all, he would have an excess.

Q. In other words, he would have more money accumulated by 1937 than he spent in 1937, wouldn't he?

A. Assuming that he had no personal expenses, no personal expenditures. I do not have any for him; but if he had those, then based on your assumption he could not have had an excess.

Q. Well, if he lived with his mother and it didn't cost him anything to live, he would get along all right, would he?

A. Yes.

Q. How much short would he be?

A. It depends on what his average per year was, if he had to pay for himself—

Q. Has he got anything left to live on after you take out the expenditures for 1937?

A. According to my figure he would have about five thousand dollars a year to live on.

1081 I think he would have to skimp to get by on that over that period of time even if he was living at home with his mother and the property she owned was paid for.

Assuming that in 1938 he didn't own any gambling houses he would be \$400,000 short.

Q. That is if you take all of the reported income from 1931 down to 1938, and what you say he had in the box, seventy-eight thousand, then deducted expenditures that you have calculated up to and including 1938, he would be short four hundred thousand, would he?

A. Yes, sir.

That, of course, is assuming that he bought the Albany Park Bank Building and paid for it, bought all of 97th and Western and paid for it, bought all of the Dells property and paid for it, bought all the Bon Air property and paid for it. That assumption does not depend entirely on Mr. Goldstein's testimony. Mr. Johnson influenced me by his testimony to me—I mean my record of what he told me. I don't think you can read my record. That is Gregg (handing). My recollection is that I made that shorthand notation in that little book the noon after I finished talking to Mr. Johnson. My recollection is that I recollected at noon after I talked to Mr. Johnson, what he had said to me in the morning and I then put it down in this little book, in shorthand.

Q. Then we come to 1939. How far did he get by that time, assuming he did not own any of these gambling houses, taking all the rest of your assumptions?

A. On the basis of the expenditures per this statement, he was \$78,000 in the red—shy, rather.

1082 He spent \$347,000 and reported only \$268,000. He needed, altogether, \$475,000 to come out even. That is still assuming that he bought and paid for all these properties that Goldstein testified about.

Q. How much was Mr. Johnson's excess income prior to

the end of 1931 as shown by his income tax returns from way back in 1921 or 1922?

A. As far as my information goes he had—didn't have an excess, he was in the hole.

Q. Well, you mean by that that according to this statement of Mr. Wilson, he had \$68,000—or, \$78,000 in the box; didn't say how much he had under the back stoop of the house, did he?

A. I don't know.

Q. Or buried out in the garden?

A. I don't know that.

Q. So you are assuming that he had come up to the beginning of 1931 dead broke, accumulated \$78,000 in 1931, and that is all he had?

A. No, he spent a lot of money, according to the records, during '31. I don't know whether he was broke at the beginning of '31 or not.

I don't remember what he spent for '31. I was not familiar with all the details.

Q. Well, he bought the building out there at 4020 Ogden avenue, didn't he, paid \$8,750 for it, and assumed a mortgage of \$8,750, that is \$17,500, isn't it?

A. I don't know about '31.

Q. That is "the" lot of money he spent in '31?

A. I don't know the details.

I don't know whether a couple of years prior to that in 1929 he bought another old shack down on Pulaski or 1083 Crawford, and paid something like \$20,000 for it.

I don't know the nature of the expenditures during '31, but he spent a big pile of money in '31, according to the records of the Internal Revenue Department—I don't know the nature of them. I don't think there were any records produced here.

Q. You are not taking that into consideration, anything that is not in evidence here, are you, Mr. Clifford?

A. Not in making this expenditure statement. I am just doing that in answering your question.

This is based only on testimony or evidence. I have already testified to all of that.

Q. But I am getting into this business prior to 1931, now, to test this \$78,000 you are talking about. Now, did you calculate his income from his returns on file for the ten years prior to 1932?

A. No, sir.

Mr. Thompson: We move the Court to strike from the record the calculations of the witness on the ground there is no proper foundation laid for the calculations and that it appears now that the calculations were made by taking into consideration improper elements and by omitting from consideration elements which should have been considered; and that the testimony of the witness is an invasion of the province of the jury in weighing the testimony of witnesses in this record, evidence in the record; and that there is no proof of any character justifying his assumptions that many of the items he has testified to are the income of the defendant William R. Johnson.

The Court: The motion will be denied.

Redirect Examination by Mr. Hurley.

1084 Q. Did you, from the calculations that have been
inquired about here, Mr. Clifford, arrive at what the defendant William R. Johnson—what he had on January 1, 1940?

A. According to this statement he would have had nothing.

Mr. Hurley: I offer in evidence at this time, if the Court please, Government's Exhibit X-252, for identification.

Mr. Thompson: We have no objection to that.

The Court: It may be received.

(Said exhibit so offered and received in evidence, was thereupon marked GOVERNMENT'S EXH(BIT X-252.)

1085 *Recross Examination by Mr. Thompson.*

The net cash income of Mr. Johnson for the year 1932, as reported by him, is \$70,677.54. I would add to that the depreciation which I allowed.

Q. The net cash income available for expenditures?

A. That is right; \$1,817.41. That is added to the \$70,000 figure.

The Witness: And in that year he realized from the sale of an investment which is not included in the other figure, the amount of \$289.45, and there was an error on the return, which reduced this figure, \$1,415.56, which brought the net to \$72,368.84.

For 1933 the amount of net shown on the return is \$74,667.81. Adding the depreciation of \$1,817.41, and an error

of \$2,097.13, brings the total—I will have to subtract it, because I have carried it forward. That brings it to about \$78,572.35.

1934, the figure reported, was \$116,214.53. Adding the depreciation of \$9,007.35, plus an adjustment of \$16,129.36, makes a total of \$141,451.24.

1935, the amount was \$57,878.88, plus the depreciation of \$9,942.68, plus a small adjustment of \$605.39, making a total of \$66,426.95.

I am adding these backwards as I go, so I may make an error.

1936, \$161,892.74, plus \$10,410.77 depreciation adjustment, plus a small mechanical adjustment of \$1,132.70, making a total of \$173,436.21.

'37, it is \$248,660.15 for the return, adding the depreciation of \$15,354.95, makes \$264,015.13.

1938, \$101,946.68, plus depreciation adjustment of 1936 \$19,028.47, making a total of \$121,075.15.

1939, \$251,715.47, plus \$17,170.51, makes a total of \$268,885.98.

Q. Now, Mr. Clifford, in making those computations, did you allow any depreciation for the building at 9730 South Western Avenue?

A. I don't know whether that was in the return or not; it was not in the '37.

Q. No, it is not on those returns. I understand, that in your computation as to Mr. Johnson's taxable income, based on the assumptions from your conception of the evidence in the record, you did not make any allowance to him for depreciation on 9730 South Western Avenue, did you?

A. No; I gave him that which was on the return, plus a small adjustment.

The adjustment I have been testifying to is what the returns actually show. In making the assumption that I did in connection with my answers as to what Mr. Johnson's returns should have been for the various years, I didn't deduct any depreciation which would, on my theory, have been allowable to Mr. Johnson on 9730 South Western Avenue. I did not make any deduction for depreciation which might have been allowable to Mr. Johnson on the theory that he owned the Dells property in calculating his income on the assumption I have made. I did not allow any deduction as to the Bon Air property in this calculation. I have no taxes or any books on those three properties that

i have mentioned. Assuming he owned the property he would have been allowed a deduction for whatever taxes he paid on that. I made no allowance or estimate of allowance in this computation. The details of expenditures for 1937, mentioning the items in gross, are: Income tax, \$78,550.70; Lincoln Park Building improvements, \$16,274; 1087 Albany Park furnishings, \$102.75; the Dells purchase, \$9,000; Albany Park bank building, \$59,887.05; 9730 South Western Avenue, land, \$13,115; building, 9730 South Western avenue, \$22,400; Sunny Acres farm, \$145,000; Sunny Acres farm capital items, \$102,223; personal items incurred at the farm, \$3,238.14; that DuPage County real estate, \$16,050.

The totals for 1937 are \$465,840.64.

For 1938, tax \$128,399.72. Lincoln Park building improvements, \$3,680.09; furnishings, Lincoln Park building, \$106.09; farm capital items, \$12,375.27; personal items, \$3,002.49; Bon Air land purchase, \$95,056.73; the advances to the Bon Air Catering Company, \$273,940.93; loan, William R. Skidmore, \$37,000. The total was \$553,561.32.

The breakdown on the land purchased for the Bon Air is the original purchase \$75,000; exhibit E-32, called the Flynn property, \$7,600; Exhibit 33, the Tatge property, \$8,456.73; Exhibit 34, called the gas station, \$4,000.

For 1939, tax \$34,530.94; Lincoln Park building improvements, \$266.08; furnishings, \$2,090.19; farm capital items, \$1,087.04; the Bon Air advances, cost of improvements, \$228,195.07; the Curran farm, \$63,800; and the advances in connection with Columbian Gardens real estate, \$17,500. The total is \$347,469.32.

The items that comprise the Columbia Gardens are \$10,000 in escrow with Chicago Title; \$7,500 in the Evanston Bank.

Q. Those are two separate transactions, then, are they?

A. I don't know whether they are both on the same one, or on two different ones, but they are two different deposits.

I have seventy-five hundred deposited on a contract of purchase from the Evanston bank, and the \$10,000 deposited on a similar contract in escrow at the Chicago Title & Trust Company.

I charged Mr. Johnson with an expenditure in the 1088 aggregate of \$45,000 on that second mortgage transaction on Division and Dearborn property, otherwise called the Lincoln Park building.

Q. What credit, if any, did you give Mr. Johnson in relation to that expenditure on that second mortgage for this payment to him? Apparently it is a debit on Government's Exhibit E-9 of \$2,250.

A. I didn't give him any credit for that.

Q. Didn't you understand that to be some payment to him on this indebtedness of \$45,000, which reduced the amount of the notes that Mr. Johnson held at that time, \$16,000 of notes he then held, by \$2,250?

A. If that is what it was, it would tend to reduce that, yes.

I did not take that into consideration.

Q. Now, Mr. Clifford, you assume in your computation of the proper taxable income of Mr. Johnson, his ownership of all these gambling houses. Did you give him credit for the \$7,200 of rent that he received on 4020 Ogden and 3121 Crawford, which are returned on his income tax returns?

A. I didn't take that out. The depreciation is taken out and he is given credit for that.

If Mr. Johnson was the owner of that gambling house, and paid himself \$7,200 rent, an adjustment taking that out would be proper. The same adjustment would be properly deductible if he was the owner of the gambling house at Division and Dearborn and paid himself rent on that gambling house. I didn't make any such adjustments. In a like situation, if he actually owned gambling houses and real estate, which he does not, in fact, own, according to his returns, then it would not be taxable on the so-called rent that he received.

1089 Q. Now, when you were speaking of the gross income of Mr. Johnson under your assumed basis of calculation, what do you understand the gross income to be?

A. Well, in this case the gross income would be before deduction of any operating expenses; but the figure that I have is supposedly after the deduction for such operating expenses.

Q. Well, you are using, I suppose, as the basis of your definition of gross income Section 22, I believe it is, of the Internal Revenue Code?

A. I do not recall the section. It is defined there.

Q. How do you reconcile the inclusion in that matter of gross income under that definition of the statute this mere exchange of currency down at the Northern Trust Company, for instance, where five thousand dollars of currency

is brought in and exchanged for another five thousand of currency?

A. Well, the testimony was in the majority of the exchanges in the cashing of checks—

Q. No, I am not talking about cashing of checks.

A. Well, the exchanging of money that large bills were paid out.

Q. Yes?

A. They were also some small ones, but the testimony is that these wages, which is the big operating expense, were paid the night before.

Q. Yes?

A. And this was in excess, which could have been used for any purpose other than that, personal or otherwise.

Q. That is the deduction that you made from the testimony in the record, in arriving at your basis for including that exchange of currency as income?

A. The deduction I took, there was no evidence to show it was used in connection with any gambling expense at that time.

Q. Well, the fact he brought in five twenty-dollar 1090 bills and got back one one-hundred bill, would not change the amount of money he had when he came into the bank, would it?

(No audible answer.)

Q. He had the same amount of money when he went out of the bank as he had when he went into the bank?

A. Yes, sir.

I found the expenditures as shown by the computations of Mr. Johnson for the year 1935, Income taxes, \$41,373.56; payment of the first mortgage, \$75,000.00; improvements to Lincoln Park, \$2,059.91; furnishings, \$3,453.81; Thorndale and Glenwood, \$326.00, making a total of \$122,213.28.

And for '34 taxes of \$27,993.00; Lincoln Park Building equity purchase, \$16,000.00; payment of the first mortgage, \$25,000.00; the delinquent taxes capitalized, \$16,205.48; improvements, \$6,030.05; furnishings, \$3,076.40; Thorndale and Glenwood furnishings, \$730.22, making a total of \$94,035.15.

In '33 taxes paid of \$8,610.10; and the balance of the purchase of the second mortgage, \$38,000.00; making a total of \$46,610.10.

'32—just the taxes paid, \$8,841.11; and the second mortgage, original purchase of \$7,000.00; making a total of \$15,841.11.

I had no expenditures prior to that in my computation. I started with a base of \$68,000.00 for January 1, 1932. I used the testimony of Mr. Wilson as the base to start with, \$68,000.

WILLIAM M. RUGGABER, being duly sworn, testified as follows:

Direct Examination by Mr. Plunkett.

I live in Chicago. I am an Internal Revenue Agent. 1091 I worked for the United States Bureau of Internal Revenue since 1923. My duties as an Internal Revenue Agent are to make examinations and verifications of income tax returns. I had occasion to make an examination of an income tax return for one William P. Kelly. I see him in the courtroom. In the course of my examination I had occasion to have a conversation with the defendant Kelly in my office on January 4, 1940. There was no one else present with us at that time. There were others in the room, but not interested in the case.

Q. Now, will you state what was said by you and what was said by the defendant Kelly on that occasion.

Mr. Thompson: I object to that as hearsay as to all the other defendants and immaterial as to him.

The Court: It may be received as to the defendant Kelly and the objection sustained as to the other defendants.

The Witness: I presented his income tax return for the year 1937 and '38 to him and had him identify them and asked him for records disclosing his activities, and the result should disclose his income tax returns, his net profits.

He said he had no records with him; that he would make a search for further records, but did not believe he had them any longer, as he had destroyed them after preparing his income tax return.

I am quoting the defendant Kelly now when I say he didn't. We later left my office and came over to this building, office 881, Mr. E. Riley Campbell. I was present there also.

Q. What was said over there on that occasion?

Mr. Thompson: I make the same objection, your honor.

The Court: The same ruling.

The Witness: We discussed his income tax returns. And again asked him for records and he again repeated that he

thought he had destroyed all such records as he may 1092 have had after preparing the returns. He thought he possibly may have some at home in a clothes closet. After that I accompanied Mr. Kelly to his home in Oak Park and the only records which might reflect anything on his income tax returns were some social security return copies for the year, or years '38 and part of '39.

Going out in the car he said he may have some adding machine tapes which would disclose his gross income and his expenditures to arrive at the net income he disclosed on his return. He did not find such tapes. He agreed that he would make a search of a safe up at the D and D Club, later telling me he did not find anything up there.

I had occasion to talk to the defendant again after that. He came to my office on January 10th, at which time he brought me some additional copies of Social Security records for the year '37. He didn't bring me anything else. I asked him if it was possible that the man who prepared his returns might have some working papers whereby he might verify the net income of the business as shown by the business schedule on his return. He said that Joe Radmonski prepared his return. I asked him if he would not contact Radmonski and try to find some working papers. He said he would. I asked him if he possibly could not find these records because he was not the actual owner of the place, and he insisted he was the owner. I asked him if he kept a regular set of books. He said no, he kept mostly these adding machine tapes.

I did, in the course of my official duties as revenue agent, have occasion to examine the tax returns of one E. H. Wait. I see him in the courtroom. In the course of the examination of the income tax return of that individual I did have occasion to have a conversation with him. The first one I had was on April 30, 1940, in my office in the Bankers Building. No one else was present.

1093 Q. Will you state what conversation occurred between you and the defendant Wait on that occasion?

Mr. Thompson: We object to that, if the Court please, as hearsay as to all the other defendants, and it is immaterial as to any person; this statement is alleged to have been made after the return of the indictment.

The Court: The objection is sustained as to all the defendants other than E. H. Wait and as to him it is overruled.

The Witness: I had Mr. Wait's income tax returns for

the years '36, '37 and '38. I asked him to identify them as being his returns, which he did. Government's Exhibits, R-82, R-83 and R-84, are the tax returns I handed the defendant Wait on that occasion. He did identify them as his. I did have a conversation with him relative to the contents of these tax reports. The first item we took up was the business schedule, known as Schedule A, in the back of the return. I am talking about the year 1936. I asked him if he had any records to disclose his gross receipts, expenses shown thereon, net income, showing a profit of \$7,628.87. He said he did have records that would disclose that, but he never made \$7,628.87 in the restaurant and beer business at the Lincoln Tavern. That was what that item was that I was talking about. It is so marked, restaurant and beer, and he stated that that business was the Lincoln Tavern at Morton Grove, Illinois. He says that to the best of his recollection he made about a thousand dollars out there in 1936 and that he would bring me records to prove that.

The next item on line 1 on the front of the return, salaries, wages, commissions, and fees, and so forth, he has an item marked, "Various establishments, Chicago and vicinity, \$5100." I did ask him about that. He said that is salary he received in various gambling establishments. I asked him

who paid it to him. He refused to tell me who did. He 1094 said that is what I earned; that is what I put down;

I know what I got." I stated that we were entitled to know who paid that salary. Those persons may claim them as a deduction on their return. He said he would not tell me. I saw the defendant Wait again after that. He came in again on May 6, 1940, at which time he brought me quite a number of records which he claimed reflected his business at the Lincoln Tavern, that is, the restaurant and beer business. I had a conversation with him at that time. I examined those records and he was correct in his statement that he did not make \$7,628.87 at the Lincoln—I asked him if these were all the records and he said yes, and that they would substantiate what he has told me previously. I asked him if the records included any gambling income on any gambling business and he said no, that he only conducted the restaurant and beer at the Lincoln Tavern, that is all that was reflected on those records. I asked him how it was that the records showed no rent paid. He stated that he did not pay rent—that he operated the beer and

restaurant as a convenience to the patrons of the game rooms in the rear operated by James Hartigan.

I asked him if it was possible that James Hartigan paid him a salary.

Mr. Thompson: We object to any statements of Mr. Wait, narration of past events at this late period, it is months after the indictment was returned with respect to James Hartigan. It is hearsay as to James Hartigan and it is hearsay as to all of the defendants.

The Court: My ruling stands. The objection as to the other defendants is sustained. Overruled as to the defendant Wait. The evidence is admissible against Mr. Wait.

The Witness: I don't remember exactly what he said—I couldn't say. I remember the substance. In substance he said he could not answer who paid him. I had a 1095 further conversation with the defendant Wait on that occasion. I asked him if he operated the roulette wheel at the Villa Moderne during the summer of 1936. He said he did. I asked him if any of those profits were disclosed in his return, and he could not identify them—such profits. I asked him if it was true that he actually retained those profits or whether a salary, in effect, was paid for operating the roulette wheels, and he said he didn't get a salary for that, but that he was allowed to retain the profits of that, it was his business.

I at that time discussed the Villa Moderne in connection with the year 1937. That was in the course of this conversation I have just related. I was questioning about all the years. I talked about 1936, '37 and '38. That was in the course of this conversation I have just related.

Q. Do you recall any further conversation that occurred between you on that occasion?

A. I found checks payable to him.

I had occasion to see the defendant Wait at a subsequent time, on May 17. He was in the office again. There was a conversation between us on that occasion.

Q. What did you say to him, and what did he say to you?

Mr. Thompson: Same objection, your Honor please.

The Court: Same ruling.

The Witness: I asked Mr. Wait to explain the number of checks we found clearing payable to him, the maker being one Carl Laemmle. I didn't have the original of those checks at that time. I had some photostats. I did show the photostats to the defendant Wait. The maker of the checks

was Carl Laemmele, drawn on the Hollywood bank. The photostats showed the endorsement on the checks, E. H. Wait. I asked the defendant Wait if those were his signatures, and he said yes. I asked him for what purpose those checks were paid him and he stated that Mr.

Laemmele lost that money in a faro game at the Drake Hotel. Mr. Wait stated that Carl Laemmele and a party of friends wanted to play faro and that he had received a call from a source which he could not identify, to go down to the Drake and deal faro. There were nine checks, eight of them being for \$500 each, and the ninth for \$525, making a total of \$4,525, dated one week apart. I asked Wait whether or not those checks would be reflected on his income tax return, and he said he did not keep the proceeds.

Mr. Hess: Object to that. We are not interested in the investigation of the income tax return of Mr. Wait in this inquiry.

The Court: Overruled.

The Witness: He stated that he did not keep the proceeds of those checks. I asked him where the proceeds went. He said he could not tell me who got the money.

Government's Exhibits O-219, O-220, O-221, O-222, O-223, O-224, O-225, O-226 and O-227, are photostats of the checks that I showed the defendant Wait on that occasion. The signature that appears on the right-hand side, E. H. Wait, is the signature that I said was identified for me by the defendant. I asked him relative to the second endorsement that appears on the back. He said he probably gave those checks to Jack Sommers, since his signature appears on there as the last endorser. Based upon my identifications of signatures on these checks and on the prior income tax returns, I know the signature of the defendant, E. H. Wait. Government's Exhibit R-85 bears the signature of the defendant Wait. It appears first on the line, the proper line for signing it—that is the tax return. It appears on the line where the taxpayer should sign his return. The oath was not administered and a rider or affidavit was attached properly sworn to. That bears the signature E. H. Wait, too. That is the defendant in this case.

Mr. Plunkett: The Government will offer at this time GOVERNMENT'S EXHIBITS O-219 to O-227, inclusive, and GOVERNMENT'S EXHIBITS R-84 and R-85,—one more question before I make that offer.

The Witness: I called Mr. Wait's home on June 4th. I

stated that I had his '39 return, and there was a little information I had, and I would like to have him come in. He said he didn't care to come in because we didn't believe anything he said. I said, "Perhaps you can give me some information over the telephone". I asked him what the amount was of salary on line 1, whether that was salary or other income. He said that the salary was incorrectly reported. He said it didn't represent salary, but his net gain from gambling, of all ventures, principally Villa Moderne that that gain was from. I stated to him that I wanted it because I wanted to correct the income credit which he had failed to take. He didn't say anything further on that occasion.

Mr. Plunkett: The Government will renew the offer heretofore made.

Mr. Hess: Before I ask a question, I move to strike all of the testimony as being immaterial to any of the issues in this case.

The Court: Denied.

Cross-Examination by Mr. Hess.

I have been a revenue agent since 1936. At the end of 1939 I performed duties of investigating and checking up income tax returns of a particular class of persons and '40, when I had these various conversations with Kelly and Wait I was assigned to a squad we know as the fraud squad.

I was checking up gamblers, chiefly bookmakers. I 1098 checked up many returns in the early part of 1940 and the latter part of 1939, in the Chicago territory. I didn't find many of them having any books in the Chicago area.

Most of Mr. Kelly's information regarding his net income was on an adding machine tape, he said. He did not show me any adding machine tape. He did not show me any piece of paper other than the Social Security record I have talked about.

Defendants' Exhibits K-1, K-2 and K-3, were marked for identification.

I did not at that time have before me and under inquiry his 1939 return—just '36, '37 and '38. I didn't see this little slip, Defendants' Exhibit K-1 for identification before—Kelly never showed me that or anything like it. I didn't see defendants' Exhibit K-2 for identification. Kelly did not show me that or anything like it.

I knew at that time that Kelly was a gambler, and I had a pretty good general information as to how gamblers kept a record of their operations. They set up a figure at the end of the month to show what their profits were, by counting their cash. Yes, I have examined gamblers with accurate records. I have found none in the Chicago area. That is the way I found they all did, and that is the way I found Kelly did.

In my same investigation I had some conversation with Mr. Wait—first about his '36 return; later '37, '38 and '39. I had some returns when I was examining Mr. Wait as I did, with the exception of '39. I had examined Mr. Kelly's '39. I didn't examine Wait's for '39 at first. I had a telephone conversation with him along in June of this year about his '39 returns, and he wouldn't come down and talk to me because I wouldn't believe anything he said. He wasn't under indictment at that time for income tax evasion.

1099 Q. You knew he was under indictment for alleged aiding and abetting Mr. Johnson, and it was the purpose of your attempted conversation with him to get evidence to testify in this case?

A. I was assigned Mr. Wait's return to examine.

Q. And you knew he was under indictment?

A. Yes, sir.

Kelly was in my office the last time on June 10th. I spoke to him after that over the telephone. The conversation of June 10th was in my office—that was about his 1936, '37 and '38 income tax. I had before me the 1936 returns, the '37 and the '38. Having those returns before me I knew the auditor who helped him formulate those returns. It was Radomski. I am not sure of '36 from memory, but the '37 return, I will tell you—I now know it was Mr. Brantman. So far as I now remember, he didn't tell me he had seen Mr. Radomski about 1936. Saw Radomski about returns Radomski prepared for him.

Mr. Hess: We object to these returns, your Honor, on the ground that they are immaterial to any issues in this case.

Mr. Thompson: If these checks are offered, we object to them as having no possible bearing on any triable issue in this case; do not prove or tend to prove in any way, the taxable income of the defendant Johnson, nor do they prove, or tend to prove in any way, the charges of aiding

and abetting against any of the other defendants; they are hearsay as to every defendant in this case except, possibly, the defendant Wait.

The Court: You may state, Mr. Witness, whether or not you are acquainted with the signature of the defendant, E. H. Wait.

The Witness: Yes, sir, I am.

The Court: Look at these signatures on these exhibits, O-219 to O-227, and particularly what purports to be the signatures of E. H. Wait on each of those exhibits, 1100 and state whether or not those are, in fact, the signatures of Mr. E. H. Wait.

Mr. Plunkett: These are the two tax returns, Government's Exhibits R-84 and R-85 (handing documents to the court).

The Witness: They are.

The Court: Look at these exhibits, R-84 and R-85, for identification, and particularly at the signatures thereon, purporting to be those of the defendant E. H. Wait, and state whether or not those signatures are, in fact, the signatures of Mr. Wait.

Mr. Thompson: We admit that the witness has already identified these signatures on both of these documents.

The Court: Well, I think he has as to one.

The Witness: These are the signatures.

Mr. Hess: Did you ever see Mr. Wait sign his name?

The Witness: No, sir.

The Court: Did he ever acknowledge his signature?

The Witness: He acknowledged signatures in his income tax return for the years 1936, '37 and '38.

The Court: To you?

The Witness: To me.

The Court: They may be received.

(Whereupon said documents, marked GOVERNMENT'S EXHIBITS O-219 to O-227, inclusive, and R-84 and R-85, were received in evidence.)

(Witness excused.)

NELSON J. GOODSSELL, recalled as a witness on behalf of the Government, having been previously duly sworn, was examined and testified as follows:

Direct Examination (Resumed) by Mr. Hurley.

My name is Nelson J. Goodsell. I was on before, 1101 about a month or so ago—I do not recall the exact date.

I am employed by Horwitz & Horwitz.

I was sworn when I was on the stand before, around August 30th.

I talked with Mr. William R. Johnson with regard to the entry, the second one from the bottom on Government's Exhibit E-47, which is one of the books of the Bon Air Catering Co. That conversation was in the fall of 1939, the latter part of September or the first part of October. I think there is another entry here that I should include in my answer.

Q. Which entry is that?

Mr. Hess: We object to that as to the other defendants except Mr. Johnson, the conversation out of our presence about certain books there. We do not know anything about that.

The Court: Objection overruled. Go ahead.

The Witness: The entry that I asked to refer back to is the second entry above the one in which the question was asked. That entry shows where the stock of the Bon-Air Catering, Incorporated, was set up on the books of that company to reflect the stock records, and shows the distribution of the stock to the stockholders in the entry. That entry shows the distribution of 100 shares of stock at a value of \$10,000.00, par 100; 54 shares to Mr. Johnson; 25 shares to Mr. Wait; 20 shares to Mr. Hartigan; and one share to Mr. Deshinger. At the time I talked to Mr. Johnson I knew of this distribution of stock. I had not been able to find where the money in payment of these amounts of stock had been paid in, so I asked Mr. Johnson for details in regard to that, and he said he had not explained why, but told me he charged the entire amount of ten thousand dollars to his account. The entry you asked me about first is the entry in which I did that. The ten

thousand dollar amount was shown charged to Mr. 1102 Johnson instead of that amount being charged to those individuals. That entry was made by me in pursuance of instructions from Johnson.

Cross-Examination by Mr. Thompson.

I am connected with Horwitz & Horwitz. They made an audit of the books of the Bon-Air Catering Company at the close of the 1938 season. That is the first the auditing firm had to do with the books of the catering company. My recollection is that prior to that they had their own bookkeeper. The corporation employed us to audit its books. I have no knowledge of the making of the contract, arranging for that employment. Horwath & Horwath are a national accounting firm, specializing in accounting for restaurants and hotels, etc. Mr. Johnson had all the charges with respect to construction work taken off as charges against the Bon Air Catering Company.

Q. And some charges were on the books, the moneys which appeared from the books to have been advanced by Mr. Geary, was there not?

A. Yes, sir.

Q. And he said that no money had been advanced by Mr. Geary, for which he had not been reimbursed, is that true?

A. Yes, sir.

After we were employed to do the auditing for the Bon Air Country Club we kept a man out there on the job continuously during the 1939 season. That gentleman's name was Mr. Clarence Black. He was our employee. He worked continuously on the Bon Air Catering Com- 1103 pany books right at their office. He was not there during the 1940 season.

At the close of the '39 season we made an audit of the books and a report.

DAVID A. SLOAN, being duly sworn, testified as follows:

Direct Examination by Mr. E. Riley Campbell.

I am a special agent, in the Intelligence Unit—I am also a deputy collector of internal revenue and a deputy United States Marshal, since July, 1939. I have been one continuously ever since. I have been a special agent in the revenue service since 1934.

Q. In the course of your official duties did you try to locate one Joseph J. Conroy?

Mr. Thompson: We object to this as a conclusion of the witness. There's no way for us to test the witness on cross examination.

The Court: Overruled.

A. I did.

Q. What, if anything, did you do in trying to locate Mr. Conroy?

Mr. Thompson: We object to this as immaterial. Mr. Conroy is not a defendant here, and no connection with us in any way as shown by any evidence in this record.

The Court: Overruled.

A. On Wednesday, July 17, 1940, I went to Sunny Acres and interviewed the manager of the farm, Mr. Wilson, and inquired.

Mr. Thompson: Just a moment. We object to any hearsay testimony of this witness on this subject, which we—

1104 The Court: He has not started any hearsay yet. He said he inquired. What did he inquire?

The Witness: I inquired from Mr. Wilson as to the whereabouts of Mr. Conroy and he told me that—

Mr. Thompson: We object to the answer previously given and move to strike it.

The Court: Let it stand.

Mr. Thompson: On the ground it contains an inference that Mr. Wilson, or Mr. Johason, the proprietor of the farm, had knowledge of Mr. Conroy's whereabouts or some connection therewith.

The Court: Overruled.

Q. What particular place at the Sunny Acres stock farm did you go to, Mr. Sloan?

Mr. Thompson: We object to that.

The Court: Overruled.

The Witness: I first went to the main farm. Went down to the barn, went down to the shed to some man there, and I inquired from some man there as to where I would find Mr. Wilson, and he told me. I do not know of any office at the Sunny Acres stock farm. On Friday, July 19, 1940, I called at Mr. Conroy's resident, 550 West Roscoe Street, Chicago, and on each occasion I was unable to find anyone at home, no answer. Then, on Tuesday, July 28th, I passed this place in the vicinity several times, looking for a car that had been described to me as belonging to Mr. Conroy. That is all I did.

I did try to locate one John W. Geary.

Mr. Thompson: If the Court please, we can't see any possible materiality in this which contains the obvious prejudicial inference that we have knowledge of the whereabouts of these men, or that they have some connection with us or that we have some responsibility for the failure 1105 of these agents to find somebody.

The Court: Overruled.

The Witness: On August 9, 1940, I called at the Bon-Air Country Club, where I was informed that he was employed. I inquired for Mr. Wait, the manager.

Mr. Thompson: We object to the assumption that Mr. Wait is the manager.

The Court: Strike out the Manager.

The Witness: Inquired for Mr. Wait about where I could locate Mr. Geary. He told me he wasn't there. He did not know where I could find him.

I called twice at his residence, 836 North Springfield Avenue. The first time I called I was unable to find anyone at all. The second time I called I talked with his mother and she told me.

Mr. Thompson: We object to the assumption that the address he gave is the residence of Mr. Geary.

The Court: Overruled.

The Witness: That is all I did in trying to locate Mr. Geary.

Examination by the Court.

I didn't find him. I didn't find the other men.

E. Riley Campbell continues the Examination.

In the course of my official duties I did try to locate one Roy Love.

Q. Tell us what you did in trying to locate Mr. Love.

Mr. Thompson: We make the same objection, your Honor.

The Court: Overruled.

The Witness: I went to Wheeling, Illinois, at the cross-roads in the main part of town and watched for him to pass that point. I was there from in the morning until late in the afternoon. That was on August 8, 1940. 1106 Upon the conclusion of this watching at Wheeling I drove on to the Bon-Air Country Club to see if the car—I checked over the cars that were parked there, trying to locate his car. I didn't do anything else at that time. On August 13th I went to his home at 1642 West 69th Street, in Chicago.

Mr. Thompson: We object to the assumption that that is his home.

The Court: Overruled.

The Witness: I talked with his mother who lives at this address.

Mr. Thompson: We object to the assumption that the lady with whom he talked was this man's mother, or that she lived at this address.

The Court: Overruled.

The Witness: I talked to this woman here at this address, who said she was his mother.

Mr. Thompson: We object to that as hearsay and move to strike it out.

The Court: Strike it out.

The Witness: I did talk with some one.

Mr. Thompson: We move to strike that answer and the one previous.

The Court: Let it stand. I assume he had a mother.

The Witness: I went to 6943 North Glenwood Avenue to talk with his brother.

Mr. Thompson: I object to that assumption that that is the address of his brother.

The Witness: The first time I went, I rang the bell, and no response. I was unable to find anyone at home. I went back the next day. I talked with Mrs. Love.

Mr. Thompson: We object to the assumption.

1107 The Witness: With the woman who said she was Mrs. Love.

Mr. Thompson: That the person with whom he talked was Mrs. Love.

The Court: I think I will let it stand.

The Witness: I didn't do anything else to try to locate Mr. Love—I didn't find him.

In the course of my work I did try to locate one Bernard McGrath.

Q. Tell us what you did in that respect, please?

Mr. Thompson: We object to the testimony on the same ground.

The Court: Overruled.

The Witness: On August 5, 1940, I went to 1307 South Kildare Avenue. I rang the bell. I didn't get any response. The same day I went to the Post Office of that district and inquired if there was any forwarding address. Following that I went to the Police Station.

Mr. Thompson: We object to the fact he went to the police station to try to locate Mr. McGrath.

The Court: Overruled.

The Witness: I talked with the officer in charge of the police station. I did not attempt to find him at the Police Station. I did make another attempt to locate Mr. McGrath. I went to the 13 Club, at 13 South Cicero Avenue. This was all during 1940. I didn't find Mr. McGrath there.

I did try to locate one Frank Vase.

Q. Tell us what you did in that respect.

Mr. Thompson: We object to that as immaterial to any issue in this case.

The Court: Overruled.

Mr. Thompson: As carrying the inference we had something to do with the failure.

The Witness: I talked to the Postmaster in the 1108 district in which he resided.

Mr. Thompson: We object to the assumption that the Postmaster with whom he talked lived in the district in which Mr. Vase resides.

The Court: Overruled.

The Witness: That was on August 9, 1940. That is all I did to try to locate Mr. Vase. I did not find him.

I did not find any of these men I looked for.

Mr. Thompson: I move to strike all the testimony of the witness as immaterial to any issue in this case.

The Court: Let it stand.

Mr. Thompson: Hearsay as to these defendants.

The Court: Let it stand.

Mr. Hurley: At this time, if the Court please, we wish to offer in evidence the map which is marked O-1 as an exhibit.

Mr. Thompson: We have no objection on the usual tech-

nical grounds, but we do object that it is immaterial to any issue in this case.

The Court: Overruled. It may be received in this case.

(Which said document so offered and received in evidence was marked GOVERNMENT'S EXHIBIT O-1.)

The Government here rested its case.

Presented Dec. 19, 1940.

John P. Barnes,
Judge.

1109

MOTIONS OF DEFENDANTS.

Thereupon defendant William R. Johnson, at the close of the evidence for the prosecution, filed its motion asking the Court to instruct the jury to find him not guilty as to each count of the indictment, and the defendants, Jack Sommers, James H. Hartigan, John M. Flanagan, William P. Kelly and Stuart Solomon Brown, filed their motions severally asking the Court to instruct the jury to find them respectively not guilty under each count of the indictment, and the Court having heard arguments of attorneys, denied said motions, to which order of denial the several defendants excepted.

Thereupon the defendants each severally renewed their motions to strike certain evidence received and made motions specifically to strike the testimony of the witness Schumacker that defendant Johnson discharged him from employment in 1930, the testimony of the witness Brantman as to his conversations with the several defendants in the matter of preparation and filing of their income tax returns, the testimony of the witness Goldstein respecting a controversy between him and defendant Creighton relating to the payment of rent for Club Western, the grand jury testimony of defendant Brown that he had destroyed certain records of the Lawrence Avenue Currency Exchange and that two money orders issued were purchased by defendant Johnson, and all other testimony which was received as to particular defendants subject to being connected up by the prosecution, and the Court overruled all such motions, and the defendants severally excepted to such ruling.

Thereupon the defendants each severally moved that the Court require the prosecution to elect whether it would proceed upon the first four counts of the indictment, 1110 or upon the fifth count of the indictment, and the

Court, after hearing arguments of counsel, overruled said motion, and the defendants severally excepted to the ruling.

Thereupon the Court ruled that its denial of the motions for a directed verdict under the fifth count was equivalent to a finding that there was substantial evidence of the existence of a conspiracy, and therefore that all evidence which had been received dependent upon the proof of a conspiracy being established, will now be received generally, to which ruling each of the defendants excepted.

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EVIDENCE OF DEFENDANTS.

And thereupon the defendants, to maintain the issues on their part, introduced the following evidence:

FLORENCE CHALMERS, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 1837 Patterson Avenue, Chicago. I am in the real estate business and I am manager of Albany Park Building on Kedzie Avenue between Leland and Lawrence. Mr. Jack Sommers is a tenant in that building. When I took over the building in 1933 Mr. Thomas Barnes was the tenant on the second floor at 4721 North Kedzie Avenue. He continued there until October 1934 when he died. After Mr. Barnes' death Mr. Sommers took over the space at \$200 a month. He has paid that rent continuously since December 1934. This is shown by my reports to the receiver of the building which are defendants' Exhibits S-1(a), (b), etc. During his tenancy Mr. Sommers has sometimes been behind in his payments but he has always paid his rent until recently. There was an adjustment early in 1936 when Mr. Sommers got five months behind. I gave him credit for the \$600 which Mr. Barnes had deposited as rent security. Later Mr. Sommers took over the first floor store at 4721 where he operated a restaurant. It was understood at the time of the original agreement that he was to have this store without additional rent. In 1938 he took over another store at 4715 North Kedzie for which he paid \$45 a month. When he put in a refrigerator plant in the res-

restaurant and increased the water consumption he paid an additional \$7.50 a month for water. The second floor space occupied by Mr. Sommers was over six stores on the 1112 first floor. The building at 4701 North Kedzie is not a part of this building. Government's Exhibit O-5 is a picture of the Albany Park Building I manage. The only front entrance to the second floor is 4721 North Kedzie. There is also a rear entrance.

Cross-Examination by Mr. Hurley.

Mr. Sommers used the second floor as a gambling house. It was closed a great deal of the time but the rent was paid. Mr. Sommers sometimes sent the rent by a boy and sometimes I collected it from him personally. There was no written lease covering the premises. Both Mr. Barnes and Mr. Sommers paid on a month to month basis. The rent was always paid in cash. Mr. Sommers now owes me three months rent but he has not given up the space. Mr. Sommers decorated the space rented by him but I do not know who did the work. The space at 4715 was used as a store room and carpenter shop. Mr. Sommers paid rent for this space. There were chairs and lumber and other things in there. The front windows in this store were painted white on the inside. Roy Love is a tenant in this property. He rents a garage in the rear. He is now a year behind in his rent. The rent for the restaurant at 4721 and the second floor space was \$200, and the rent for 4715 was \$45. All the tenants furnished their own heat. The second floor space is about 100 feet along Kedzie and 60 feet deep.

Redirect Examination by Mr. Thompson.

Defendants' Exhibits S-2(a), (b), etc. are rent receipts which I gave Mr. Sommers for the periods represented on them.

1113 Mr. Thompson: We offer in evidence DEFENDANTS' EXHIBITS S-1(a) (b), etc. as to the items referring to 4715 and to 4721 North Kedzie, first and second floors, and also DEFENDANTS' EXHIBITS S-2(a), (b), etc.

Mr. Hurley: No objection.

The Court: They may be received.

JOHN ENGSTLER, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 6444 Drake Avenue, Lincolnwood, Illinois. I own the real estate on which is located the Dev-Lin Club. Prior to 1935 I operated on the property a dance hall, tavern and picnic grove. About the first of May 1935 I leased the property to defendant, Edward Wait. Defendants' Exhibit S-3 is the lease I made with Mr. Wait. He occupied the property for one year. He built a brick addition to the building on the property. Government's Exhibit O-19 and O-19(a) are photographs of the Dev-Lin Club after Mr. Wait made the improvements. Defendant Jack Sommers succeeded Mr. Wait as my tenant on May 1, 1936. Mr. Sommers paid me \$250 a month for the property and I gave him receipts which are defendants' Exhibits S-4(a), (b), etc. Mr. Sommers made some improvements in the property. He made some alterations in the building for better ventilation and he built a fence.

Cross-Examination by Mr. Plunkett.

In 1938 I tended bar for Mr. Sommers at the Dev-Lin Club. Prior to that I parked cars for Mr. Sommers in 1937.

I worked about four weeks for Mr. Wait parking cars. 1114 Mr. Wait built the brick addition to the building. I live in the house right next to the Dev-Lin Club. A new heating plant was put in the building. I know Mr. Schultz who lives across the street. He worked about the Dev-Lin Club when it was being fixed up. Roy Love moved a little real estate office off the property. He also cut up an old boiler which was lying in the alley. When the Wait lease expired I did not make a new lease with Sommers. He paid me from month to month. He is not paying me rent now. When Mr. Sommers took over the place Mr. Wait told me he was going out of business and that he had got me a good tenant. Mr. Sommers was my boss when I was bar tender at the Dev-Lin. He paid me \$5 in cash every night. A girl named Lillian was in charge of the bar. I don't know her second name. I think she was the one who worked at the Horse Shoe restaurant. She always paid me. When I first worked there Mr. Wait was my boss. I did not

see Mr. Sommers around there until the spring of 1936. I did not pay any of the cost of new construction or other charges on the property. Gambling was operated in the new room. I never worked at the Horse Show restaurant but I have been there to collect my rent from Mr. Sommers.

Mr. Thompson: We offer in evidence DEFENDANTS' EXHIBIT S-3.

Mr. Plunkett: No objection.

The Court: It may be received.

CHARLES KIMMEL, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 3425 Foster Avenue. I was employed by Mr. Jack Sommers as bookkeeper. I graduated from Lane Technical High School in 1919 and I have had two 1115 and one-half years of accounting at De Paul University. After I finished school I worked as bookkeeper and cashier for a commission house on Randolph Street for six years. While in school I played the violin and later I formed my own band and played professionally for about three and a half years. I went to work for Mr. Sommers in the fall of 1936. Prior to that time I had never been employed in a gambling house. I had been unemployed for seven or eight months and I was selling Christmas cards which I had drawn by hand. I went to the gambling house to get some orders. Mr. Sommers was impressed by my work and asked whether I could letter some signs for him. Later I did this work for him and then he offered me a job and I took it. I started to work as a shill at the Horse Shoe, 4721 North Kedzie Avenue. No one had anything to do with my employment except Mr. Sommers. He fixed my wages and hours and duties. Later I dealt Red and Black. Mrs. Rebman played that game. The limit was five and ten; that is, you could bet up to \$5 on any suit and up to \$10 on red or black. Mr. Sommers fixed the limit of the game. Mrs. Rebman wanted the limit changed and I told her she would have to see Mr. Sommers. Mr. Sommers came over and told me that Mrs. Rebman could bet as high as \$20 on red or black provided she put a dollar on the first card. As to other players the five and ten limit remained. Mrs.

Rebman played along for a while under the new limit and then she brought someone with her to play for her in order to beat the limit of the game. About December 1, 1936, Mr. Sommers asked me to take charge of his Social Security records. I worked out a system for a daily payroll and had forms printed. Defendant's Exhibit S-5 is one sheet of the large book. The figure in pen and ink in each square on the page represents a day's pay. It 1116 shows in cents how much the employee paid. A page was made for every employee. Defendant's Exhibit S-6 is the page of Earl Courtney. It represents for an employee in 1936 what S-5 represents for an employee in 1937. Defendants' Exhibit S-8 is what I call a key sheet. It shows the time we were at the Horse Shoe and the time we were at the Dev-Lin and the totals at the end of each month for the entire payroll. Defendants' Exhibit S-9 is the amount of the payroll every day for the year 1939. I prepared this sheet and I know the entries are true. The total amount of the payroll tax of Mr. Sommers in 1939 was approximately \$29,000. Each Social Security sheet shows one per cent of the wages paid that employee. The figure \$426.37 at the top of the column on the right-hand side is one per cent of the payroll for the month of January 1939. This means that the payroll was \$42,637 for the month for those paying the tax. The red figures are for men over sixty-five years who did not pay the tax. The total payroll was approximately \$45,000. In February 1939 Mr. Sommers paid his employees who paid the tax \$39,000 and in March \$44,840. Mr. Sommers paid the Federal Government \$2,100 for the first quarter of the year 1939. As I collected the Social Security tax from the employees I deposited it in the bank. At the end of the quarter checks were drawn to cover the tax. The tax for the first quarter of 1939 was \$6,359.95, for the second quarter \$6,142.75, for the third quarter \$7,224.03, and for the fourth quarter \$28.05. At the end of 1939 an excise tax of \$1,204.02 was paid. Defendants' Exhibit S-9 is a total of the individual sheets for 1939 and also indicates when and where Mr. Sommers was operating for the different periods. It shows that the Horse Shoe at 4721 North Kedzie was operating from January 1 to June 1, 1939, and that Mr. Sommers moved to the Dev-Lin Club on June 2 and continued there until September 25, 1939. Defendants' Exhibit

S-8 shows the same things for 1938. It shows that the 1117 Horse Shoe operated from February 9 to March 18, 1938, the Dev-Lin from March 19 to April 18, the Horse Shoe from April 19 to May 24, and the Dev-Lin from May 24 to August 14, 1938. This exhibit shows that the payroll for February, 1938, was about \$11,000, for March \$14,000, for April \$19,000, for May \$24,000, for June \$24,000, for July \$25,000, and for August \$16,000. Defendants' Exhibit S-10 is a return to the Collector of Internal Revenue and the Department of Labor for the quarter ending March 31, 1939. It is signed by Mr. Jack Sommers, owner, on April 12, 1939, and the check for \$3,595.49 is signed by Jack Sommers and drawn on the Northern Trust Company. There is attached to the return sheet signed by Mr. Sommers a list of all the employees. A similar report and check was filed each quarter. I prepared the reports and filed them. Mr. McLaughlin, whose handwriting appears on Defendants' Exhibit S-6, took care of the Social Security records on the night shift for a certain period. I took over the day and night shifts in January, 1939. Originally my hours were from 1 to 8 p. m. The night shift came on at 8 o'clock. Mr. Sommers asked me to come down at 2 o'clock and work until 9 so that I would be able to take care of both payrolls. I kept Mr. Sommers' books in the restaurant. Since 1932 I have been connected with golf tournaments. I have been the official scorer for nearly every major golf tournament in the United States. During the periods of these tournaments Mr. Sommers gave me leave of absence, if he was operating at that time. About June, 1937, I worked for Mr. Sommers at the Lincoln Tavern for about a week or ten days. Mr. Sommers was then operating the Lincoln Tavern and no one else was in business there at that time. I performed the same services at the Lincoln Tavern I did at the Horse Shoe and the Dev-Lin. The employees were carried on the Horse Shoe payroll.

1118

Cross-Examination by Mr. Hurley.

I worked at Harlem Stables a short time in 1938. I gave out the payroll there in small manila envelopes about six inches long and four inches wide. The employees were paid in currency every day at the end of each shift. The shills got \$4 a day, the floor men \$15, the box

men from \$12 to \$15, and the dealers from \$7 to \$10 a day. Men who drove their own cars and hauled customers got \$7 a day. Cashiers got from \$8 to \$10 a day. All employees were paid in currency. In the bookie, sheet writers got from \$5 to \$7 a day. Porters were paid \$17 a week. I never heard of a service man in the bookie. There was no Keno where I was employed which ran during the hours I worked. The door men were paid from \$7 to \$10 a day. It was the duty of the cashiers to change money and to pay off the winners. The floor man or the box man would write a slip stating the amount a patron had won and the cashier would give him the cash. I never worked in a book. There was a broadcasting set at the Horse Shoe.

Mr. Thompson: We object to all this as improper cross-examination.

The Court: I don't think it is all improper cross-examination. I think the last question may be improper.

I did not keep any books and records of the receipts taken in at the Horse Shoe nor at the Dev-Lin. There was no other bookkeeper in these gambling houses. I don't know what became of the sheets that were written by the sheet writers in the book nor what became of the sheets kept by the cashier. I kept no record of what came out of the slot machines. I never saw anyone take money out of them. I don't know Barney McGrath. I have seen him once or twice around the Horse Shoe. I know Conrad McGrath. I have seen him at the Horse Shoe but he did not work there except as a cashier for a short time 1119 early in 1937. John Geary, otherwise known as Bud, worked at the Horse Shoe for a while. I would say he was a sheet writer two or three months in 1937. I haven't seen him for a couple of years. I know Ray Love. He did repair work at the Horse Shoe off and on. He might be there two or three hours and then again I would not see him for weeks. It covered the entire period from 1936 to 1939. I should say we had about seventy-five employees for the short period we were at the Lincoln Tavern. These employees were paid in currency every day. Mr. Sommers was the boss and Mr. Claude Sullivan was the floor man in the daytime and Mr. William Barre at night. I was only on duty about an hour at night and cannot say whether there were others in charge under Sommers at night. I know Al and Frank Kalus. They

both worked at the Horse Shoe. Frank was a cashier on the side games and Al walked around like one of the floor men. A floor man acts as an overseer. If a game gets crowded he opens another table. I haven't seen either of these men for months. I did not put the money in the pay envelopes. Mr. Sommers gave them to me with the money in them. Defendants' Exhibit S-9 is in my handwriting. I made the entries on there at the end of each month. Bartels was a box man at the Horse Shoe back in 1937 or 1938 and perhaps in 1939. Oglesby was a box man who worked at the Horse Shoe all the time I was there. I prepared and filed the Social Security returns for the Horse Shoe. The returns from the Dev-Lin were filed under the name of the Horse Shoe. Milton Sommers is a brother of Jack Sommers. He was a box man at the Horse Shoe. Government's Exhibit S-1 was prepared by me. S-2 was probably prepared by Mr. McLaughlin. It is written on a typewriter. I cannot tell you who prepared S-3 without seeing the original. These are just duplicates.

Q. As to Government's Exhibits S-4 and S-5—?

1120 Mr. Thompson: We object to all of this as improper cross-examination.

The Court: What do these purport to be?

Mr. Hurley: Social Security returns.

The Court: Overruled.

I cannot tell as to these or as to S-6 or S-7. They show nothing but typewriting and I cannot tell by that. Sometimes I used a typewriter. No one but Mr. McLaughlin and I worked on these records. Mr. McLaughlin worked on the books from February 24 to August 24, 1938, and again from December 2, 1938, to January 22, 1939. I am referring to the Social Security books. Everything in these books was put there by me except what Mr. McLaughlin put there. They were kept for Mr. Sommers under one employer's number. The records for the Horse Shoe, the Dev-Lin and the Lincoln Tavern were kept under one employer's number. Sullivan and Barre were in charge under Sommers at the Lincoln Tavern. They were in charge under him all through 1937, 1938 and 1939. I worked in an office in the center of the gambling quarters which was similar to a paying teller's cage at a bank. The cashiers in the book had little booths at the side of the room. The cashiers for the side games worked in

little raised booths. I used a little portable typewriter to prepare Defendants' Exhibit S-10. Mr. Sommers' sister typed some of these reports. When we needed her help we called her and she brought her portable typewriter. I do not know the make. I used the typewriter down in the restaurant. I think it was an Oliver. I spent a little time at the end of each month on the restaurant books. I prepared no Social Security returns for any gambling house except those operated by Mr. Sommers. I do not know of Earl Jackson being employed at the Horse Shoe. Peter Montague was a box man there for about two years.

I do not know Peter Riley. He is on the Social 1121 Security records. He worked on the night shift and Mr. McLaughlin gave him his pay. He worked from February 15 to August 25, 1938, and from December 2, 1938, to January 6, 1939, and then for three days in June, 1939. He was paid \$10 a day but I do not know what kind of work he was doing.

Q. What employees of this gambling house were getting \$10?

Mr. Thompson: We object to that. The witness has already said he does not know what Mr. Riley did.

Mr. Hurley: He knows what all these men were paid.

The Court: Overruled.

There were several different types of employees who were getting \$10 a day. There were dealers of different kinds and cashiers. I knew an employee named Joseph Sperling. He was one of the door men. He worked there from June 11 to August 31, 1937, and from May 3 to May 16, 1938. I don't know a man named Frank Vasicek who worked at the Horse Shoe. The records in Mr. McLaughlin's handwriting show that he was on the night shift from August 6 to August 25, 1938, and from December 4, to December 12, 1938. He got \$15 a day but I do not know what he did. Floor men and box men got that amount. I never knew this man as Frank Vase. I did not know Frank Villum as an employee of the Horse Shoe. The records show he worked at night from June 1 to July 6, 1938, and got \$15 a day. I imagine he was a box man. I knew James Gleason as an employee at the Horse Shoe. He was a cashier from January 1 to June 14, 1937, and from May 25 to July 30, 1938. I do not know that he worked anywhere else. I dealt Red and Black for about ten days at Harlem Stables.

1122 *Redirect Examination by Mr. Thompson.*

Mr. Hartigan employed me at Harlem Stables. When the Horse Shoe closed I asked Mr. Sommers whether he thought I could get work out there and he sent me to Mr. Hartigan. This was some time in 1938. When I was preparing to file Social Security returns I talked with someone at the Federal Building about whether I should file a separate return for the Horse Shoe and the Dev-Lin. They told me that one employer's number was sufficient.

Mr. Thompson: I offer in evidence Defendants' Exhibits S-5, S-6, S-7, S-8, S-9 and S-10(a), (b), etc.

The Court: They may be received.

BERNARD KOCH, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 6337 North Kenmore. I have been employed by Mr. Jack Sommers since about 1935. I began employment as a shill and later became a dealer in a dice game. You entered the Horse Shoe gambling room through the middle of the north wall. Down the west wall were the Red and Black game and the poker games. At the south end was the horse book. Down the center of the room were the crap games. The wall sheets for the horsebook were on the south wall and at the south end of the east wall were the sheet writers and the cashiers for the book. The cashiers' cages looked like bank cages. Near the north wall on the west side of the door were money changers' cages and in the northwest corner was a vault. To the left of the entrance or east side of the room there were wash rooms and check rooms. The first table immediately in front of the door was a crap table for 1123 the money game and the second was the same. Beyond that there was sometimes another money game and then there were usually two or three check games. Four men work at a dice table, a box man and a dealer on each side of him at one side of the table, and a stick man on the other side. The dice table was about twelve feet long and had on it a regular crap lay-out. This is a long green cloth having on it a "Do Pass" line, a

"Don't Pass" line, a number space, different numbers and different propositions. The layout is double, each end of the table being the same. At the money tables we dealt with dollar checks and paper currency. When a player used checks and decided to cash out, the box man would call out the amount and a runner would bring the money from the money changer. We used 5's and 20's at the tables and sometimes 100's. One hundred dollar bills were used to pay out where the player won more than \$100. If a player won \$1,000 he would usually be paid nine \$100 bills and three or four 20's and the rest in 5's and singles. If the player finished playing with a large number of 5's we would ask him to turn in his 5's and take 100's because we needed the 5's for working money. For efficient dealing the working money needed to be practically new. When we got new packages of dealing money we usually cut it in with the money we had been using so that it would make it easier to deal. We would take one new bill, then one used bill, then another new bill, and then a used bill, and so on. Bets were settled at the end of each play. When a player quit winner he sold us the checks he had. The box man would call out the amount and write a slip, a runner would take that slip to the money changer and get the player his money. Jack Sommers hired me and paid me and fixed my hours of work and my duties. He fixed the limit on the crap game, settled all disputes, okayed the credit of patrons, and performed all other services of supervision. No one else performed these services when Mr. Sommers was present. If

1124 he was not present, then the floor man appointed by

Mr. Sommers performed these services. I have seen defendant Wait but I never worked for him. I have seen defendant Creighton but I never worked for him. I have seen defendant Flanagan but I never worked for him. I have seen defendant Hartigan and I worked for him for a while at the Harlem Stables when Mr. Sommers' places were closed. I went there to look for a job and Mr. Hartigan hired me. He fixed my pay and my hours and my duties. When Mr. Sommers' places were open I worked for him. The gambling room at the Dev-Lin Club faced south. Almost directly in front of the door were the crap tables. To the right were the money changers' stand and down the right wall the black jack game and the roulette wheels. The horse book was at the north end of the room.

Jack Sommers was in charge of the Dev-Lin Club and performed duties there similar to those performed by him at the Horse Shoe. I worked for Mr. Sommers at the Lincoln Tavern for probably a week at two different times, one late in 1936 and the other in the summer of 1937. Our other places were closed. Mr. Sommers was in charge and there was no one else in authority at the Lincoln Tavern while we were there. I do not know defendant Mackay. I know defendant Kelly and I worked for him for a while at the D. & D. Club. He hired me and paid me and fixed my hours and duties. Mr. Kelly had full charge of the D. & D. Club. I worked for him only two or three nights. I do not know defendant Brown. I have known defendant Johnson ever since I worked for Mr. Sommers. He came often to the Horse Shoe. He might be there two or three times in one week and might not show up again for a month. He would come in and look around and talk to Mr. Sommers. If there was a big game on, one above the \$100 limit of the Horse Shoe, Mr. Johnson would take over the table. Mr. Sommers would tell the box man to check the table and Mr. Johnson would take over the game. While Mr. Johnson was at the table, 1125 if there were any cash-outs, he paid them out of his pocket or out of a box. There was no limit when Mr. Johnson was in charge of the table. When the game was over we would move to another money table and I don't know what else was done. Mr. Johnson had nothing to do with my employment at the Horse Shoe Club. I have never seen him do anything there except stand around and visit or bank a game where there was heavy play. He visited the Dev-Lin Club when we were out there, sometimes two or three times a week, and then again maybe not for a week or two. When there was a big game he would take over the game. I don't remember seeing him at the Lincoln Tavern during the two short periods we were there, nor do I remember seeing him at the D. & D. Club during the few days I was there. I saw Mr. Johnson at Harlem Stables and I have seen him take over a few games out there. When Mr. Johnson took over a dice table he furnished the bank roll. The working money and the checks and \$5 bills were checked to Mr. Johnson by Mr. Hartigan and these were left on the table for working tools. I never saw anyone come in to a gambling house with Mr. Johnson nor did I ever see anyone traveling with him nor did I ever see anyone go out with him.

Cross-Examination by Mr. Plunkett.

I never saw any other person take over a game in these gambling houses except Mr. Johnson. I cannot name any of the players who were betting too high for the house to take the bets. If the bets were more than \$100 on a roll of the dice, it was beyond the house limit. When a player wanted to bet beyond the limit he notified Mr. Sommers and I don't know what arrangements he made about sending for Mr. Johnson. Mr. Johnson did not roll the dice himself. He acted as box man or dealt the game. He had a large bank roll which he took out of his pocket. If a player won he paid him right there. He carried his money in his trousers pocket in a large roll of 5's, 10's, 20's and 100's. I don't know how thick the roll was nor do I remember how many pockets he took it from. He dealt this money at the table if he was dealing. He dealt only to the men who were betting against him,—the man that was playing the high amounts. The other dealer at the table dealt to the other persons. When he was not dealing he sat down at the box. When Johnson took over the table it was his money on the table. He took over the entire game whether the bets were \$1 or \$100. When he sat at the box he just watched the game. The dealers dealt the game. When there was cashing out he took the money out of the box or out of his pocket. The money in the box was his. As the players lost, their money was put into the box and when they won he paid them. If the money in the box ran out and he needed more money he took it out of his pocket. All of the money on the table when he took over the game was his. When there was a high player he would deal directly to him and pay him off directly. The regular dealers dealt to the other players. These high rolling games lasted until they broke up. Sometimes they lasted an hour, an hour and a half, two hours, sometimes thirty minutes. I cannot give you any particular time of one of these games. I cannot say whether it was a year ago or five years ago. I cannot single out any one game. I know it happened on numerous occasions. I do not remember when the last game happened.

1127 JOHN LEO, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 2319 South Whipple Street. I have lived in Chicago all my life. I have worked for Jack Sommers at the Horse Shoe and at the Dev-Lin. I started in 1935 dealing a crap game. I dealt the money game. A player puts his money on the lay-out according to his bet and I cover it. If they win I pay them off at the end of the play. If they lose I take the money. There are four dealers at a crap game. Three work at one time, two dealing and one on the stick. The box man sits between the dealers. He supervises the game. One dealer cannot cover a whole table. It is about the size of a billiard table. One works at each end. The stock man stands opposite the box man. He calls the dice and then rakes the dice back to the player. The dealers use chips and five and twenty dollar bills for dealing. The chips are for those who play under \$5. The 5's and the 20's are for those who bet those amounts or more. The working money must be nearly new money. Old money is too soft to deal. In high games \$100 bills are used for dealing. One hundred dollar bills are used to pay winners who have won more than \$100. When winners have 5's and 20's we ask them to take big money so that we will not run out of working money. Jack Sommers hired and fired employees at the Horse Shoe, settled disputes and gave orders generally. He fixed the limits of the games. The standing limit on the crap game was \$100. The limit of a bet on one roll of the dice was \$100. Mr. Sommers okayed the credit of patrons and assigned the employees to their duties. When Mr. Sommers was away he designated the floor man who was to be in charge. If both Mr. Sommers and the floor man were out, he left the senior box man, Mr. Greenberg in charge in the day-1128 time. At night the man under Mr. Sommers was Mr. Barre. I have heard of defendant Creighton but do not know him and never worked for him. I have not seen defendant Wait and never worked for him. I worked a couple of nights for defendant Kelly at the D. & D. Club. I have heard of defendant Mackay but never worked for him. I have heard of defendant Flanagan but never worked for him. I worked for defendant

Hartigan a few times at Harlem Stables. I have known defendant Johnson for seven or eight years. He frequently came into the Horse Shoe. Sometimes he would come two or three times a week and then he wouldn't come for three weeks or a month. He sometimes gambled in the Horse Shoe when there was a game over the house limit. There was no limit when Mr. Johnson took over the game. He would sometimes act as box man and sometimes would deal the game himself. When the game was high Mr. Sommers would check the table to Mr. Johnson and Mr. Johnson would take over the table. When there is a \$100 limit it applies to each player and \$1200 or \$1400 could be involved in such a game on a single roll of the dice. Fourteen or fifteen people can play at a dice table. Mr. Sommers' position at the Dev-Lin was the same as his position at the Horse Shoe. Mr. Johnson would take over high games at the Dev-Lin. Mr. Sommers would check the table to him and Mr. Johnson would take over the table and furnish the bank roll. I worked for Mr. Sommers a week or two around the middle of 1937 at the Lincoln Tavern. I saw Mr. Johnson there once or twice and I think I saw him play out there once.

Cross-Examination by Mr. Hurley.

When I first got out of school I worked for a while in a plumbing supply house. In gambling houses I have always worked as a dealer. I learned to deal craps 1129 about fifteen years ago on Clark Street. I started to work at the Horse Shoe I think at the end of 1934. That was on the second floor on Kedzie near Lawrence. Sommers was the boss there and I don't know that anybody was hiring Sommers as boss. I worked sometimes days and sometimes nights. Sommers used to switch us around. Sometimes we were closed. When we were not closed I worked sometimes days and sometimes nights. I would say forty per cent. days and sixty per cent. nights. It was the same during all of the period from 1935 to 1939. I don't know John Geary. I know Roy Love. He had a workshop about three doors south of the restaurant and he used to work around the Horse Shoe. I have seen him fix electric lights and also do some carpenter work. I never saw him do anything else around the Horse Shoe. Sometimes Mr. Johnson would come to the Horse Shoe two or three times a week and then again he would not come for

a month or two. He would also drop into the Dev-Lin and if there was a high game he would take over. When there was a game over the \$100 limit he would come in and take over the game. When Mr. Johnson took over the game there was no limit. He furnished the bank roll. He took it out of his pocket. He would have a big handful of currency. I did not notice which pocket he took it from. He would take out a great roll of bills. I don't know whether he took it from his coat pockets or his pants pockets. They were all denominations,—10's, 50's and 100's. He carried new money and old money, different kinds and different sizes of bills. The table would be checked to him when he took it over and when the play was over Sommers would close the table and put us to work at another table. Johnson did not handle the dice. He would deal sometimes and sometimes he would sit at the table and sometimes he would sit on the lookout stand and watch the game. I would stay at the table during the game. Johnson would bet with one or two or three or four or five men. Others could be in the game and be betting a dollar or two dollars. I would handle those bets. When the bets got too big for me he would deal himself. He would play wherever the big play was. He never handled the dice. He would stack his bank roll on the table and hold some of it in his hand. The bets he won were put in the box. I never saw a box filled up while he was betting. When the game broke up I don't know what was done with the money. I would go to deal another game. Sommers and Johnson used to check the game after it broke up. I don't know what happened to the money. Johnson used to play with a couple of brokers. I don't know the names of any of the players. When Jack Sommers was operating the game the box would be taken from the table every so often and an empty box put in its place. The runner would take the box to the money changer. The box would be changed two or three times a day, sometimes every hour, sometimes it would be two hours. When I was dealing I would stand right alongside the box man. A lookout stand is a high platform with steps leading up. You can look over the whole table from this stand. You can look all around the room if you want to. There was not a lookout stand at every table but at the main tables. There was one here and there. When Johnson was not on the lookout stand Sommers would get up there or a box man would be there. Koch and Walsh and Greenberg used to deal when Johnson was in the game.

I don't know of any others who dealt in his game. There was one money table at the Horse Shoe and the others were check tables. I don't remember how many money tables there were at the Dev-Lin,—one or two, depending upon the size of the crowd. Sometimes there were two and occasionally three money tables at the Horse Shoe 1131 on busy nights. Johnson came into the game only when there were players betting big money. If there were high rollers at different tables, they would all come to one table and he would take that table. I talked to Mr. Sommers about testifying in this case and also Mr. Thompson. I talked to the lawyer at his office about fifteen or twenty minutes a couple of nights ago. I met Mr. Sommers coming out of the barber shop a week or two ago when he asked me to come down. It was some time about 8:30 in the morning about a week or ten days ago. I was out driving around and just happened to run into Sommers.

JOSEPH FEINBERG, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I live at 165 North Pine Street and have lived in Chicago about thirty-three years. I have known defendant Johnson for eighteen or twenty years. I have gambled with him. I dealt Blackjack for Jack Sommers on and off from 1937. I worked for him at the Horse Shoe and at the Dev-Lin and for a short time at Lincoln Tavern. We were at Lincoln Tavern a week or ten days at the end of 1936 when we got chased out of the Dev-Lin. No one else was in the Lincoln Tavern at that time. Mr. Sommers was the boss in these places. He gave orders and supervised the gambling room. He fixed the wages and hours of work and the limits of the game and okayed the credit of patrons and settled disputes. I don't know defendant Creighton. I have known defendant Wait for a short time but never worked for him. Defendant Kelly used to shoot craps at Kedzie and 12th Street when I worked there. That was back around 1925 or 1926. I worked for Mr. Kelly for a short time at the D. & D. Club, 1132 say, about a month. Mr. Sommers had nothing to do with my employment there. I know neither defendant Mackay nor defendant Flanagan. I have

known defendant Hartigan for two or three years. I worked for him about five nights at Harlem Stables. I was out of employment and got my job from Mr. Hartigan. Mr. Johnson had nothing to do with getting me employment at any of these places. Mr. Johnson never employed me at any time. I have never known Mr. Johnson to do anything except gamble. He booked crap games twenty years ago when I first knew him. I used to see him frequently at a gambling house at Lincoln and Lake and at several places on 12th Street. Mr. Johnson confined his gambling to shooting craps.

Cross-Examination by Mr. Plunkett.

I saw Mr. Johnson gamble in the early 20's at the Lincoln Club. I have not seen him out there since then. I went to work at the Horse Shoe around 1937. I saw Mr. Johnson at different places prior to 1937. I saw him at 12th and Kedzie at Davey Miller's place. He was booking a crap game. There was no limit to the game. He covered whatever the player wanted to bet. I worked at 12th and Kedzie for about eight or ten years. Then I worked for a man named Adler at 12th and Homan around 1931 or 1932. I don't remember where I worked from 1933 to 1936. I was gambling at different places. After I went to work at the Horse Shoe there were times when it was closed. When both the Horse Shoe and the Dev-Lin were closed I worked elsewhere. I worked for about a month at the D. & D. Club. When the Horse Shoe was closed the Dev-Lin was generally open. There were times when both places were closed. I think they

were both closed about six months in 1938. I don't 1133 remember just when I worked the thirty days at the D. & D. Club. I drew some unemployment compensation in 1939. I worked at Harlem Stables five nights in 1937. From January to August 1937 I worked at the Horse Shoe. I dealt blackjack. I don't know John Geary, otherwise known as Bud. The floor men I knew at the Horse Shoe were Sullivan and Barre. I knew Roy Love. He had a carpenter shop nearby. I saw defendant Johnson sitting on the platform at a money game at the Horse Shoe. When Johnson was not there the box man used to sit on the platform. I also saw Sommers and Barre sitting there.

Q. Were you subpoenaed to appear down here?

Mr. Thompson: We object to that as immaterial.
The Court: Overruled.

I was not. Mr. Thompson and Mr. Sommers asked me to come down. Sommers called me at my home about a week ago. I met him at the lawyer's office. I had not seen him since last September when the Horse Shoe closed.

PHILIP GREENBERG, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 1330 Kedvale Avenue. I have lived in Chicago all my life. I started working for Mr. Sommers at the Horse Shoe about 1936. I was a money dealer at a crap game. I worked many places in Chicago prior to working for Mr. Sommers. Mr. Sommers hired and fired the employees at the Horse Shoe, gave orders, okayed checks and did everything else a boss would do. Mr. 1134 Sommers had a floor man by the name of Barre. I worked as a box man. My duties were to see that the players were paid off correctly and to settle disputes at the table if I could. If I could not settle them Mr. Sommers did. A box man sits between the two dealers and watches all the bets. The money box is in front of him. A dealer is on each side of him and the stick man is across the table. There are dice in a bowl by the box man. Any player has the right to take dice home with him. That was the policy of the Club. Anyone at a dice table could pick up a pair of dice in play and take them home with him. When a pair of dice were taken off the table I put a new pair on. The dice used by Mr. Sommers were marked "Horse Shoe". He had red dice and white dice. A dealer in a crap game takes all bets and pays all winners. He works with checks or chips and with five and twenty dollar bills. Dealers always stand when they are working. The lay-out on a crap table is the same at each end and a dealer works at each end. There is a string across the middle of the table between the box man and the stick man. The dice must roll across the string for a play. When a box man is relieved at a table he sits on a stand to watch the table. Mr. Sommers was always around the room giving orders. I worked for Mr. Sommers at the Horse Shoe and at the Dev-Lin and a few days at the Lincoln Tavern at one time. Mr. Sommers

performed the same duties at the Dev-Lin as he did at the Horse Shoe. I have known William R. Johnson four or five years by sight. He visited the Horse Shoe occasionally,—sometimes once or twice a week and again once a month. The same at the Dev-Lin. He would sometimes take charge of a dice table. If he took over the table Mr. Sommers would check it to him. The chip rack which held \$1 chips would be filled and full packages of working money would be put on the table. The old money 1135 would be put in the box and taken from the table.

Mr. Johnson would either sit down at the box or get in and deal himself. We always started with \$2,000 in currency on the table. There would be more if the game was big. When Mr. Johnson acted as box man he sat at the middle of the table and when he dealt he stood at a dealer's position. Mr. Johnson only played when there was a high game on. If he came to the Horse Shoe and there was no high game he would leave. Mr. Johnson never gave me any orders and had nothing to do with my employment at the Horse Shoe, the Dev-Lin, or any other gambling house. I have seen defendant Creighton but have never worked for him. I know defendant Wait by sight only but never worked for him. I worked for a day or so for defendant Hartigan at Harlem Stables. He was short a dealer and asked me whether I would fill in. I don't know defendant Flanagan. I worked for defendant Mackay at the Casino about three weeks. I asked him for the job and he employed me. Mr. Johnson had nothing to do with my employment at the Casino or at the Stables. I don't know defendant Kelly.

Cross-Examination by Mr. Plunkett.

I started to work at the Horse Shoe in 1935 as a dealer in a money game. I learned to deal dice about twenty years ago on the South Side. I worked all around Chicago before I started at the Horse Shoe. I worked at Cicero, at 51st and Indiana, at 43rd and Halsted, at 43rd and Indiana, and at 51st and Prairie. I have worked for Charles Stretch, Tom Barnes and Mr. Perlson. When I worked for Tom Barnes he was located at 5040 South Halsted. That was about twelve or thirteen years ago. Jimmie Hartigan did not work there while I was there. I never worked for 1136 Barnes at the Horse Shoe. I first met Jimmie Hartigan at Harlem Stables. I was never at the Horse

Shoe until Sommers took it over. In 1928 or thereabouts I worked for Harry Belford at the Dells. After that I worked at 43rd and Indiana for Perlson for about six months. Then I gambled on my own for a while. Then I worked on a bakery wagon for Silverstein and Finkelstein for about a year. That was where I was working before I went to the Horse Shoe. I was never employed at 4020 West Ogden Avenue. I was in that club about 1929 as a player. I have been there off and on since that time. I played Keno there in 1937. I was then working at the Horse Shoe days and I went over to 4020 a few times at night. I never dealt dice at 4020 that I remember. I might have for one night. I worked at the Horse Shoe days sometimes and nights sometimes. I worked days during 1937 and nights during 1938. I was taken off the day shift because I played the horses. There was a rule against playing the horses and I was fired for violating the rule. I was off about a month and then I was put on nights. I don't remember seeing a flashlight over the front door inside the Horse Shoe to signal that a bus was leaving. I know nothing about the bus system that ran between the Horse Shoe and the Harlem Stables. I never heard of such a service. When Mr. Johnson took over a dice table he would either sit at the box or on the lookout stand and watch the game. Mr. Sommers would have me check the table, fill up the chip rack with a thousand chips and take the loose money off the table. A new money box would be put on the table and fresh packages of money,—two or three or four,—would be left on the table. That money would be furnished by Mr. Sommers and checked by Mr. Johnson. Mr. Johnson would take 1137 money out of his pocket and deal with it. He would not need to take money out of his pocket unless more was needed than was on the table. There was usually \$2,000 in money on the table. This was working money. There is a percentage in a dice game in favor of the house. I don't know the exact figure. It is one and something. If the player rolls two aces the Do Pass players lose and the Don't Pass players break even. Players lose when they do not make their bet or their proposition. My best judgment is that the house percentage is about 1.4%. I don't know the percentage on the other side games. There were no slot machines at the Horse Shoe while I worked there except about ten for about two weeks. I don't know what years that was. I knew Barney McGrath. He worked as a box

man. I did not know John Geary. He was never a floor man while I worked there. When Johnson took over the dice table the same percentages held for him as they did for the house. I never worked for Johnson. He did not pay me for working when he took over the table. He would keep the table while the game lasted. It might be all night. All the money he won was his. He might start the game at 10 o'clock, then go until 3 o'clock in the morning, sometimes six or seven in the morning. I got paid overtime when we worked until 7 in the morning. I remember he played until 7 o'clock in the morning sometime in 1938 at the Dev-Lin. I was box man part of the time and Johnson was dealer. Part of the time Johnson was box man and I was dealing. I don't know the name of the player that kept at the game until 7 o'clock in the morning. He was some South Water Street man. There was a table full of players. Johnson quit winner but I don't know how much he won. Another player was a wholesale meat dealer. Another was a baker and another a bond salesman. I never knew their names.

Most of the players who were in this game at the 1138 Dev-Lin which lasted until 7 o'clock in the morning were regular players. In a normal game we usually started off with \$2,000 in working money. This would be in four packages of \$5 bills. The stack would be two or two and a half inches thick. There would also be checks on the table and sometimes a few \$20 bills. The \$100 limit permitted you to bet \$100 on any roll of the dice. You could bet some combinations that paid as high as ten to one. There was a further limit of \$300 on a roll, that is, your \$100 back and \$200 more. When Johnson had the table he would cover any bet. Johnson used money out of his own pocket for the high roller. I cannot say how large an amount I have seen him win. It has run into the thousands. When he was dealing he would hold money in his hand. Johnson would put money on the table, sometimes as high as \$6,000 or \$7,000 in big money,—100's, 50's and 20's. When the playing was high you had to use big money. Small money was not fast enough. Johnson used old and new money. You can deal old money if you know how. Johnson was a seasoned dealer and so was I. I never knew who was boss at 4020 West Ogden. Johnson had nothing to do with getting me a job at the Horse Shoe or any place else.

Redirect Examination by Mr. Thompson.

Mr. Sommers fired me for playing horses at the Horse Shoe and Mr. Sommers rehired me when I went back to work.

WALTER SASS, being first duly sworn, testified as follows:

1139 *Direct Examination by Mr. Thompson.*

I reside at 6032 Eddy Street, Chicago. I am a truck gardener. My truck farms are northwest of Chicago. I am acquainted with the location of Harlem Stables. I managed the property for the owners. The building was erected originally as an onion storehouse. The first tenants in the building were Uhler and Maringer. It was then known as the Yellow Lantern. Later the Glave brothers came along and they changed the name to Harlem Stables. Later Earl Jackson was the tenant. Defendant's Exhibits S-11(a), (b), etc. are rent receipts showing payments of rent by Earl Jackson in 1935. Defendant Hartigan rented the property about five years ago, about August, 1936. Mr. Hartigan came to me in the onion field where I was picking onions. Mr. Jackson was then four months behind in his rent. I had told him that something had to be done about this rent. Mr. Hartigan, with Mr. Sommers and Mr. Long, came over to my place and asked me whether Harlem Stables was for rent. I told him I was having trouble collecting the rent and if the tenant did not pay up the place would be for rent. Mr. Hartigan was doing all of the talking about renting the place. He said he would be back later. I talked with Jackson and told him I had a chance to rent the place and he told me he would get out if I gave him a little time. I rented the place to Mr. Hartigan. About a month later about midnight my phone rang and I was asked to come over to Harlem Stables to settle a dispute between Earl Jackson and the Glave brothers. I went over to Harlem Stables and they were arguing. Mr. Sommers, Mr. Long, Earl Jackson and the Glave brothers were present. I met three new people there,—William R. Johnson and Elmer Johnson and a lawyer representing the Glaves who introduced him-
1140 self as Tom Courtney's cousin. They asked me who was the owner of Harlem Stables and I said, "Well,

I am going to tell the truth regardless who it hurts." I then said to Russell Glave, "You came to my house last February and you told me you were absolutely through and that from now on I would have to deal with Earl Jackson, that he was the new owner." The Glave brothers were then four months back in their rent. I told them I had to get on the market and could not stay any longer that night but that if they wanted to come over to my home two nights later we could argue the question out. Two nights later the Glave brothers and their attorney and Jack Sommers, Frank Long and the Johnson boys and Earl Jackson and some other men, who had some account books, came over to my house. William Johnson sat in the parlor and talked with me and the rest of them went into the dining room and spread out some papers on the dining table. I did not see William Johnson give anybody any money. After the conference was over, all of them left my house.

Q. Within recent months have you seen either of the Glave boys?

Mr. Plunkett: We object to that as immaterial.

Mr. Thompson: It is important to get the facts about this matter.

The Court: Sustained.

A. Since Mr. Hartigan rented Harlem Stables in August, 1936, he has paid the rent. He paid \$200 a month until August of last year, then \$250 until January 1 this year.

Q. Was Mr. Hartigan at your home while this dispute was going on and being settled with the Glave brothers?

A. No, sir, he was home sick they said.

Mr. Plunkett: We object to what they said.

The Court: Strike it out.

1141 Mr. Plunkett: No cross-examination.

EARL JACKSON, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 2829 Lawndale, Chicago. I was employed at Harlem Stables in 1934 as a bar tender by the Glave brothers. I became the proprietor of Harlem Stables about the first of May, 1935. The Glave brothers then owed me back salary. I paid no money for the place. They turned it over to me to pay my salary. The Glave brothers had no

property there except a little bar about twelve feet long. The rest of the furniture and fixtures belonged to Riverview Park. When I took over Harlem Stables I sent about 800 chairs and 200 tables and two cash registers and a grand piano back to Riverview Park to the owners. I acquired new fixtures and furniture. I rented chairs and tables from the Roosevelt Catering Company. Later a brewery let me have some chairs and tables. About the first of August, 1936, I had a transaction with defendant Hartigan. I sold to Mr. Hartigan the different things I had in the place. The Glave brothers had no property at Harlem Stables when I turned over possession to Mr. Hartigan. I paid rent to Walter Sass while I ran the place. Defendants' Exhibits S-11(a), (b), etc. are rent receipts I received from Sass. After I sold Harlem Stables to Mr. Hartigan the Glave brothers came around again. They had an attorney with them. They had been to see me before, say, about two or three days after I closed my deal with Mr. Hartigan. It was some time late in the afternoon. The Glave brothers demanded that I turn over to them the money I had received and I refused. They assaulted me with a base-1142 ball bat and I had to call the police to throw them out.

I was present later when Mr. Sass was called to settle the dispute. This was about the latter part of August, I would say, two or three weeks after I sold the place. There was a lot of discussion and then Mr. Sass suggested that we come over to his house and thrash the matter out. Later we went to Mr. Sass' house. The Glave brothers and their attorney and Bill and Elmer Johnson and Mr. Long and some bookkeeper and some bar tender were there. The conference was held in Mr. Sass' dining room. Mr. William R. Johnson was never in the dining room. He stayed in the front room. An agreement was reached and a settlement was made with the Glave brothers and the bar tender. Mr. Hartigan was not there. I was told he was sick. I was working for Mr. Hartigan and he had not been down to his place of business that day. He had been away two or three days. When I inquired about him I was told he was ill.

Mr. Plunkett: I object to that.

The Court: Strike it out.

A. William R. Johnson did not offer any money in the settlement of this dispute. Mr. Sass lived about two miles from Harlem Stables. The bookkeeper present at the conference was Charles Kolarick. He had a claim against the

Glave brothers for back salary. I don't know the name of the bartender but he also had a claim against them. These claims were all settled that night. I saw Glenn Glave at the Bon-Air Country Club about two months ago.

Q. Were you in the waiting room of witnesses for this trial about Wednesday, September 11, when Mr. Watts was present?

A. I was.

1143 Mr. Plunkett: We object to all this entire question.

The Court: Sustained.

(The following proceedings were had out of the hearing of the jury.)

Mr. Thompson: Mr. Watts, who was a witness, told this witness he never saw Bill Johnson in his life, that he didn't know what they called him for, yet he came in and testified he was the man who paid over some money.

Mr. Plunkett: We object to the statement.

Mr. Thompson: I am making it to the Court.

The Court: Sustained.

(The following proceedings were had in the hearing of the jury.)

Q. Well, at this time when the Glave brothers or one of the Glave brothers last saw you,—which one was that?

A. Glenn Glave.

Q. Was there any further talk there about claims?

Mr. Plunkett: We object to that.

The Court: Sustained.

Mr. Thompson: If the Court please, they opened this and brought it all out and I offer this for the purpose of showing the whole story.

The Court: Sustained.

Mr. Thompson: We offer in evidence DEFENDANTS' EXHIBITS S-11(a), (b), etc.

Cross-Examination by Mr. Plunkett.

I have never worked for defendant William Johnson. I have worked at the Bon-Air for the last three seasons. I was working for the Bon-Air Catering Company. I never knew the Company was defendant Johnson. Previous to working at the Bon-Air I worked at the Dev-Lin and just before that at the Horse Shoe. Since I sold Harlem

1144 Stables I have been working at the places I named. I also worked about thirty days at Lincoln Tavern.

When I sold out Harlem Stables I went to work there. Jimmie Hartigan was my boss. I don't remember the name of the boss when Hartigan was sick. I think the first time I met defendant Sommers was when the Glave brothers came into Harlem Stables after Mr. Hartigan took it over. I saw him out at Mr. Sass' home. I don't know whether Sommers was running Harlem Stables when Mr. Hartigan was sick. Sommers was there the night of the big argument. Other than that I don't know whether he was at Harlem Stables. I was working outside parking cars. When the Glave brothers made their demands I was called in and asked about it. I later saw Mr. Sommers at the Horse Shoe and the Dev-Lin. I saw him once out at the Bon-Air where I was tending bar. I was parking cars at the Horse Shoe and the Dev-Lin and the Lincoln Tavern. I drew \$35 a week. I was paid \$5 a day. I am now working at a small night club called The Snow Drop located at Granville and Broadway.

Redirect Examination by Mr. Thompson.

I got my employment at Bon-Air through the bartenders union. Then I reported to Mr. Spagget, the steward. I have worked there only as a bartender.

Recross-Examination by Mr. Plunkett.

There is no relationship whatever between my giving up the Harlem Stables and my holding the jobs I have since that time.

1145 Q. Well, did the fact that you gave up the Harlem Stables to these men that were out there.—Johnson, Sommers, Hartigan—

Mr. Thompson: We object to the implication. He sold the Harlem Stables to Mr. Hartigan according to the evidence.

The Court: Overruled.

Q. Did that fact have anything to do with the work you got after that?

A. Mr. Hartigan promised me a job as part of the consideration.

My employment at the Horse Shoe and at the Dev-Lin and the Bon-Air had nothing to do with Mr. Hartigan's promise to give me employment.

Mr. Thompson: What is the Court's ruling on our offer of the exhibits?

Mr. Plunkett: We object to them on the ground they are immaterial and there has been no proper foundation laid.

The Court: Let us see them. They may be received.

JACK SOMMERS, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 6144 North Rockwell, Chicago. I have resided in the city for thirty-six years. I am thirty-eight years of age. When I first left school I was employed in the law firm of Hammer, Burchmore & Latimer in the Harris Trust Building. I left school in the eighth grade. I was an office boy for the firm for about a year and a half and then I worked about two years in the auditing department of the Pullman Car Company. When I was about eighteen I 1140 went to work for Harry Block who ran a cigar store and poolroom. I worked for him five or six years. When I was about twenty-five years old I went into business for myself. That was about 1926. I opened a cigar store and card room at 2403 West Division Street. I think I was there about three or four years and then I opened the Anchor Sandwich Shop at 4750 North Kedzie. I ran that shop about four or five years and then I sold it to Thomas Barnes. Toward the end of 1934, after Mr. Barnes' death, I bought the Horse Shoe from Mrs. Barnes. Mrs. Chalmers was then the manager of the building at 4721 North Kedzie. I paid \$200 a month rent for the second floor space. A year or so later I opened up the restaurant. There was no increase in rent when I took over the store-room in which I opened the restaurant. As you enter the restaurant there is a cigar store and cashier's desk. Beyond this is a lunch counter that will seat about fifteen people and some booths along the wall. The kitchen is in the back. There are steam tables where you can select your food. You can go directly from the restaurant up to the gambling floor. The stair rises along the north wall of the building and lands about the middle of the depth of the building. You enter the gambling room about the middle of the north wall. Immediately in front of the door are four or five dice tables down the middle of the room. To the

right of the door is the cashier's or money changer's stand, and then the vault in the corner of the room, and then south along the Kedzie Avenue side are the roulette wheels, the Red and Black game, and the poker game. In the rear of the room is the horse book. At the south end on the east wall is the office of the horse book where the sheet writers and cashiers work. Also along the east wall toward 1147 the front of the room were the check rooms and the rest rooms. In addition to the restaurant and the second floor space I rented a storeroom at 4715 North Kedzie. This was used for storage of surplus equipment. The front windows were whitewashed. I sublet the rear of the store to Roy Love for a workshop. I have known Love since around 1930. He was then working for Mr. Barnes. After I took over the Horse Shoe he installed some fixtures for me, did some carpenter work and cement work and repaired some tables and chairs. With the property I had the use of four of five garages in the rear. I used these for storage space. Sometimes when the gambling houses were closed, the help would gather in the front end of the storeroom at 4715 and play cards for pastime. Mr. Love had some garage space for storage as well as the workshop in the back of this storeroom. In the Horse Shoe gambling room I operated dice, roulette, blackjack and poker as side games and also a horse book. I never had a Keno game. I had a few slot machines for a while but have not had any for three years. I think it was in 1937 when I had eight machines for a short time, six nickel machines, one dime and one quarter. I do not know what percentage slot machines pay. The witness Cobb worked for me and was a change maker on the slot machines when I operated them. These machines attracted a few people. The number of employees at the Horse Shoe varied according to the business. Sometimes there were fifty and sometimes 150 divided about equally between the afternoon and evening shifts. The number of patrons varied from time to time. I would say there would be 300 or 400 horse players in the afternoon and perhaps 150 or 200 players at the side games when things were going well. In the evening there might be 600 or 700 patrons. I was 1148 the sole proprietor of the Horse Shoe restaurant and gambling house. I had no partner. I had no obligation to divide profits with anyone or pay anyone part of the profits of the business. No one was obligated to share any

of my losses. There has never been any one interested in my business in any way since I opened the Horse Shoe in 1934. I directed and managed the operation of the Horse Shoe. I opened the place and I closed it. I hired and I fired the employees. I assigned the employees to their work and fixed their hours. I paid all the bills and got all of the profits. When I wanted assistants I appointed them. Claude Sullivan was my assistant in the afternoon during the whole period I operated the Horse Shoe. In the evening Al Kalus and William Barre were my floor men. These men carried out my instructions. I fixed the limits on all the games. I settled disputes and I okayed credits. I made all purchases of supplies and paid all bills. Defendants' Exhibit S-12 is a money order purchased to pay Entry Service. There were many such money orders for similar service. Defendants' Exhibit S-13 is a receipted bill from the Entry Service Company for wall sheets and hard cards. These are used in the operation of the horse book. I have other receipted bills from the Entry Service for the year 1939. Supplies not purchased from the Entry Service were purchased from Edward Don & Company and Lien Chemical Company and other dealers in horse book supplies, janitor supplies, and so on. Defendants' Exhibits S-14 and S-15 are two receipted bills from Don's. The supplies covered by S-14 were delivered to the Horse Shoe and those on S-15 were delivered to the Dev-Lin Club. I ordered these supplies without directions from anyone and I paid for them myself. I bought my supplies for the side 1149 games from O'Neil & Company. Defendants' Exhibits S-16(a) and (b) are two bills covering gambling supplies purchased from O'Neil. There were hundreds of similar transactions represented by similar bills. Defendants' S-17(a) and S-17(b) are receipted bills from Dixie Coal Company, covering deliveries to the Horse Shoe and to the Dev-Lin respectively. Money order receipts are attached to these bills. There are many other similar receipted bills covering coal transactions. Defendants' S-18 and S-19 are receipts covering rent paid for parking lots near the Horse Shoe. There were many similar receipts issued. Defendants' S-20 is a receipted bill from Novak & Company, sheet metal workers, covering installation of a ventilation system in the restrooms at the Dev-Lin. Defendants' Exhibits S-21, S-22 and S-23 are receipts covering various telephone bills. There were many of these. De-

defendants' Exhibits S-24, S-25 and S-26 are receipts for gas and electricity at the Horse Shoe and at the Dev-Lin, and S-27 is a service contract with Commonwealth Edison for the Horse Shoe. I acquired the Dev-Lin which was located at 6430 North Drake, Lincolnwood, from defendant Wait and paid him \$5,000 for it. I leased the real estate from John Engstler. Defendants' S-4(a), (b), etc. are rent receipts given to me by Engstler at the times rent was paid in 1939. I have destroyed the 1936, 1937 and 1938 receipts. I was the proprietor of the Dev-Lin Club during all of the period after I purchased it from Mr. Wait and no one else was in any way interested in it and no one received any part of the profits or was in any way responsible for any part of the losses. I had about the same number of employees and operated about the same games at the Dev-Lin as I did at the Horse Shoe. In general the Dev-Lin was operated as the Horse Shoe under the same authority.

1150 When the Horse Shoe was closed the Dev-Lin would be operating and when the Dev-Lin was closed the Horse Shoe would be operating, generally speaking. Defendants' S-28 is a graph representing generally the periods when the Horse Shoe operated during the years 1936, 1937, 1938 and 1939. In 1936 the Horse Shoe operated from April to July and from November until the end of the year. In 1937 it operated the first half of the year. The Dev-Lin operated from June to September in 1937. For a week or ten days I was at the Lincoln Tavern. That was because I could not operate either the Horse Shoe or the Dev-Lin. I made arrangements with Mr. Hartigan to use the Lincoln Tavern. No one else was there when I was occupying it and no one was interested with me in the gambling club at the Lincoln Tavern. I do not have an independent recollection of the times I operated the Horse Shoe and the Dev-Lin in 1938. I get the exact dates from my Social Security records. These records were kept under my supervision and direction and truly represent the facts recorded. The chart, defendants' Exhibit S-28, refreshes my recollection as to the exact dates of opening and closing in 1938. I was open at the Horse Shoe from February 9 to March 18, at the Dev-Lin from March 19 to April 16, at the Horse Shoe from April 17 to May 24, at the Dev-Lin from May 25 to August 14. As I was closed at one place I opened at the other. I was closed at both from August 14 to December 3. Then I opened the Horse Shoe and stayed open to

the end of the year. In 1939 I operated the Horse Shoe continuously until June 1. The periods on the chart for 1936 are approximations from my public service bills. They are accurate as to months but not as to particular days. During the latter part of 1936 I was out at the Lincoln Tavern for about a week. I made arrangements for that with Mr.

Hartigan. Nobody else was interested with me in that 1151 gambling house during that period. Defendants' Exhibit 29-A is a proposal from Wendt & Krohn for some air conditioning at the Horse Shoe. It is dated March 27, 1939. Exhibit 29-B is a receipted bill bearing date May 31, 1939. About the time of these dealings I had a conversation with Edward Wendt and suggested that he might get some work at the Bon-Air Country Club. He had asked me whether I knew of any place where he might install another job. He got a \$7,000 contract at the Bon-Air. He went out there to collect and they wanted to pay him \$3,500 in cash and he did not want to carry the money. I arranged to have the cash delivered to him and later at his request I got the other \$3,500 and bought a money order for him and gave it to him. The money was paid to me by Mr. Bud Geary from the Bon-Air. I had known Mr. Wendt for five or six years when I contracted for the ventilating equipment covered by defendants' Exhibits S-29(a) and (b). I made the contract and I paid the contract price. No one else had any interest or connection with this contract or the paying of the bill. I know Leo Didier. He met me at the House of Niles in August, 1936, and asked for a job. I did not say to him, "I will have to see Bill Johnson." I told him that I had nothing to do with the House of Niles and that he would have to see Mr. Mead. I heard Russell and Glenn Glave testify. Mr. William Johnson did not pay any money to them in connection with the Harlem Stables settlement as they testified. Mr. Johnson did not pay any money to Peter Wadinski in settlement of his claim nor did he pay any money to Mr. Kolarick. Mr. Johnson was not in the conferences when the settlement was discussed and made. I know Robert Thibert who is in the bus business. I arranged with Mr. Thibert to furnish bus service between 1152 some time in the winter of 1935. Mr. Hartigan asked me whether I knew anyone in the bus business and I told him that there was a bus company located on Kedzie, a mile or so from the Horse Shoe and that I would

check there. I talked with Mr. Thibert and made the arrangement for Mr. Hartigan. The Horse Shoe was not open at that time. I don't know who paid for the bus service between Chicago and Lincoln Tavern. Later I had bus service from the Horse Shoe to the Dev-Lin and I paid those bills. There were a few times when I made payments to accommodate Mr. Hartigan. In December, 1936, when I was operating at the Lincoln Tavern I had bus service there. The same was true when I was operating at Lincoln Tavern in 1937. I paid for this service. I did not make arrangements with Mr. Thibert for bus service between Harlem Stables and Chicago. That was a continuation of the arrangement made with Mr. Hartigan when he was at Lincoln Tavern. I made no arrangements for bus service for Mr. Creighton. Mr. Thibert asked me whether he might use my name in making arrangements with Mr. Creighton and I told him he could. I don't know whether he arranged with Mr. Creighton for service. I know Thomas Kehoe who testified. I have known him for seven or eight years. He has worked for me at small jobs. I gave them to him out of sympathy. He made change for me at the restaurant at 4721 North Kedzie and he also worked in the check room there. Mr. Johnson did not say to Mr. Kehoe in my presence at the Dev-Lin Inn, sometime in 1935, "You go to work down at the cigar store at the corner of Kedzie and Leland." There was never any such conversation. There was a cigar store and restaurant operated at 4701 North Kedzie about 1935. That is about a half a block from the Horse Shoe in a different building. I never operated at 4701. I bought the restaurant equipment there from Mr.

Hartigan when he closed the place. I don't know
1153 whether Kehoe worked at 4701 in 1935 but I do know

Mr. Johnson did not tell him in my presence to go down there and go to work. I gave Kehoe \$10 a week out of sympathy but Mr. Johnson had nothing to do with the arrangement. Mr. Johnson had no authority to make any arrangements or give any orders at the Dev-Lin Club. I know Mr. George Lebbin. Mr. Johnson asked me whether I could give him a job. I do not remember the date. I employed Mr. Lebbin and I paid him. Mr. Johnson had nothing to do with his employment except to intercede for him. The equipment belonging to me and Mr. Hartigan which Miss Anderson of the warehouse testified about is located in two separate storage places. I pay for the storage of my

equipment and Mr. Hartigan pays for storage of his equipment. Both bills are sent to me and Mr. Hartigan reimburses me for his storage. The warehouse is a block and a half from the Horse Shoe and is five or six miles from Harlem Stables and seven or eight miles from the Lincoln Tavern. Mr. Hartigan had no place of business nearer the warehouse than the Stables. I know Nathan Cobb and heard him testify. I never had twenty-five or thirty slot machines in my place of business. He worked on the six or eight slot machines I had for a while and made change for the patrons. I discharged him because he was stealing quarters from the Red and Black table where he played as a shill. I employed Cobb when he worked for me and I paid him and assigned him his duties. Mr. Johnson had nothing to do with his employment or his discharge. I know Frank Singer. He asked Mr. Johnson to find him a job and Mr. Johnson spoke to me about giving him employment. Singer had worked at a news stand down town. Mr. Johnson had nothing to do with hiring him except to request that I give him a job and he had nothing to do with paying him or laying him off when I got through with him. Nearly every day somebody asked me to give some unemployed person a job. I know Herman Van Spankeren who testified about settlement of the lawsuit filed by his mother-in-law against me and others. He claimed that he had gambled in many gambling houses around Chicago and had lost a lot of money. I talked to some of the other defendants and they denied any liability. I settled with him because I did not want a disturbance raised which would get my house closed. I gave him \$1,000 and no one else contributed a penny to this settlement. Mr. Johnson had nothing to do with the settlement. I heard the testimony of William Brantman. I first met him at the restaurant at 4750 North Kedzie operated by Tom Barnes. Barnes introduced me to Brantman. Mr. William Johnson was not present. The conversation related by Brantman to the effect that Johnson brought him to me and asked him to explain to me about the drive the Government was making on gamblers for income tax never occurred. When Brantman began making out my income tax returns I did not know he was making out returns for any of the other defendants. I knew he had been making out returns for Mr. Barnes. I had no connection with Mr. Barnes. I was a patron in his restaurant when he introduced me to Brant-

man. That was after I had sold out to Mr. Barnes. I heard the witness Irwin Marcus testify. I did business at his currency exchange. I had been cashing checks at the Northern Trust Company. They asked me to deposit my checks and then draw out the cash and I told them that I cashed these checks as an accommodation and did not want them to appear in my bank account because they were not income. About a year later one of the vice-presidents told me that I was running a small banking business and that they preferred that I get my checks cashed somewhere else. I made arrangements with Mr. Marcus to cash checks and exchange currency. His was the nearest currency exchange in my neighborhood. He made a special arrangement to cash my checks for 25¢ a hundred.

Sometimes I asked for \$100 bills. These are used to pay off winners who have more than \$100 coming. When players won at the tables we asked them to leave the small denominations which we used as working money and to take money in large bills. When currency was exchanged, the amount did not represent profits or gains. I have the same amount of currency after the exchange as I had before. When checks were cashed the proceeds did not represent profits or gains. Some of these checks were cashed as an accommodation for neighboring business houses. Others were cashed for players who might quit winner or loser. As to each check I cannot tell whether it represented a profit or whether there was a loss in the transaction with the person who cashed the check. The amount of checks cashed had no relation to the profits or losses in my business. After I had done business with Mr. Marcus for a while I introduced Mr. Downey to him. I told him Mr. Downey would bring checks in to be cashed and that I would stand back of the checks. I think Mr. Downey was employed by me at the time. I do not know how Mr. Downey got checks from Harlem Stables or Lincoln Tavern which he cashed with Marcus. I know he had a brother working at the D. & D. Club and this brother would give him checks to take to the exchange to be cashed. I know nothing about checks being in envelopes marked with the initials "D. & D.", "L. T." or "H. S." When I discontinued business with Mr. Marcus I told him I was taking my business to a building around the corner. I did not tell him that this was our building. I said nothing about who owned the building. I did not know who owned the building where the new currency exchange

was being established. Mr. Hartigan asked me to take my business to the new exchange. I had known Mr. Hartigan for fifteen or twenty years and we had been friends for 1156 that long. When my places were closed I used to spend a good deal of time at Mr. Hartigan's places. If his places were closed he would visit with me. I had nothing whatever to do with operating the Harlem Stables which was one of Mr. Hartigan's houses. I did not hire or discharge any of his employees nor did I make any contracts for him except at his request. Mr. Hartigan had no authority at the Horse Shoe or at the Dev-Lin which I operated. He never hired anybody to work at any of these places but he has recommended people to me for employment. He had no authority over the employees at the Horse Shoe or the Dev-Lin and he made no contracts for these places. He had no interest whatever in my houses. During the short periods I operated at the Lincoln Tavern he had no financial interest in my business. I had no financial interest in his business at the Harlem Stables. I used to go to the Northern Trust Company about once a week to cash checks or exchange currency. Sometimes it would be twice a week and then there would be weeks when I did not go at all. The amounts of the transactions would vary. I don't think any of the transactions were less than \$3,000 and I don't know of any that exceeded \$5,000. When the Horse Shoe and the Dev-Lin were closed I had no checks cashed or currency exchanged. I know Albert Bissel and heard him testify. Defendants' Exhibit S-30 is a check he gave me dated September 15, 1937. I think it was post-dated about a month. I have known Bissell for three years or so. The check represented a loan to Bissell. He said he needed some extra money and would be able to pay the loan by the time the date of the check arrived. He said he was working for the Lionel Train Corporation and expected a bonus check. I never saw him after I made the loan to him. This was the first and only loan I ever made to him. He gambled occasionally at the Horse Shoe and at the Dev-Lin over a period of two or three years. He sometimes won and 1157 sometimes lost. He did very well. He went out a \$1,500 winner on several occasions. He was paid in \$100 bills. From the time I made the loan until I saw him in the courtroom I had not seen him. The loan was made around July, 1937. I did not call anyone on the phone to get authority to make the loan. I did not have a dial phone

in my place of business then or at any other time. He wrote out the check in my office. When I made the loan I never said, "I will get in touch with the boss." I had no boss in my place of business. The telephone conversation he related never took place. William R. Johnson had nothing to do with this loan nor with any other loan I ever made to anybody. The notations on the back of the check indicate payments that were made toward the end of 1938. I sent a man to make the collections. In May, 1938, he paid \$50 on the loan and in the fall he made other small payments totalling altogether \$125. That is all I have collected on the loan. I know Adelaide Rebman. She used to play Red and Black at the Horse Shoe. Sometimes she won and sometimes she lost. She asked me to raise the limit on the game and I did. I never reduced the limit as she testified. I never told her at any time that if she wanted a higher limit she would have to see Mr. Johnson. Mr. Johnson had nothing to do with fixing limits on games at my gambling houses. I never told Mrs. Rebman about seeing anyone in connection with my places and I never said to her or anyone else that if players had complaints they would have to take them to Mr. Johnson. I never mentioned Mr. Johnson's name to Mrs. Rebman. When I made out my income tax returns I got information from records I kept. These records were submitted to the accountants who made out the returns. Defendants' Exhibits S-31(a), (b), (c) and (d) are connected with my return for 1939. Exhibit 31(a) 1158 is the expense in connection with the operation of an apartment building I own. 31(b) is a work paper used by Mr. Radomski when he was figuring out my return. He made out the return at my home. Exhibit 31(c) is a report of the receipts and expenditures of my restaurant. Exhibit 21(d) shows my earnings in the gambling business. I used to keep the daily results of my gambling business on paper and then at the end of the month I put the total in a book. The records of the operation of the restaurant were kept in regular account books and these are still available. I did not keep regular account books with respect to my gambling houses because this was an illegal business. I arrived at the results of the operations connected with my gambling houses by starting with a certain bank roll and then at the end of each month I would determine the amount of gain I had. For example, if I started out with \$5,000 the first of January and at the end of January I had \$6,200 I had made

\$1,200. I put that down in my book and I went through the same general practice for each month. The slip of paper marked 31(d) shows the monthly items for the year 1939. I don't have any such memorandum papers for prior years. My wife and I have an account at the Northern Trust Company which was for our apartment building operations. I also have another account for my Social Security. My wife and I have a savings account. About February, 1940, I delivered to the Government agent my Social Security books and my restaurant books and my cancelled checks, copies of reports and other documents. In August and September, 1936, I was frequently at the Harlem Stables. I had no connection with its management and no financial interest in it. I was just visiting there. Mr. Hartigan was the proprietor.

In 1938 Mr. Hartigan was frequently at the Horse 1159 Shoe and the Dev-Lin. Mr. Hartigan had no interest in these places and was just visiting. Mr. Hartigan and I were never business partners. I had no interest in or connection with the D. & D. Club. I have never had any partnership in any business. I had no connection with or interest in the Casino. I think I was there once in my life. I had no connection with the 4020 Club and have never been there. I had no connection with Mr. Flanagan's place of business at 2141 Crawford and have never been in that room. I had no connection whatever with the Southland Club and have never been there. I have never been in any place operated by Mr. Creighton. I have known William R. Johnson for about fifteen years. He patronized a place where I worked fifteen years ago. I have never been associated with him in any business venture. He has no interest of any kind in the Horse Shoe restaurant or gambling house, and he has never had any financial connection with that place of business. Mr. Johnson has not now and never did have any connection with my operation of the Dev-Lin. I know that he plays at different gambling houses but I know nothing about his business relations with the proprietors of any gambling houses other than my own. I never knew until this trial started that Mr. Johnson ever filed an income tax return. I had no knowledge of any kind respecting returns he filed or what he reported. I never had a conversation with him of any kind respecting his income tax returns for any years. He never had any conversation with me of any kind with respect to my income tax returns for any year. The subject of making income tax returns or keeping

records therewith has never been discussed between Mr. Johnson and me prior to the return of this indictment. I never had a conversation with Mr. Creighton with respect to Mr. Johnson's income tax at any time nor with Mr. Wait nor with Mr. Kelly, nor with Mr. Brown nor with Mr. 1160 Mackay nor with Mr. Flanagan. The subject of Mr.

Johnson's income tax returns was never a subject of discussion between me or anyone else at any time or place prior to the return of this indictment. I have never done any act or said anything in connection with what sort of return Mr. Johnson should file in any year. I never had the slightest interest or concern in Mr. Johnson's income tax or his income tax returns. I never paid Mr. Johnson any part of the income of the Horse Shoe or the Dev-Lin. I never gave Mr. Johnson any money at any time in connection with any business establishment in which I had an interest. I have never been an employee of William R. Johnson. I have never been under his direction or control in any transaction of any character. I have seen Mr. Johnson gambling over a period of fifteen years in at least ten different gambling houses around Chicago. He gambled at the Horse Shoe and at the Dev-Lin during my operation of them. The limit on my dice game was \$100. When Mr. Johnson played he banked the game and had complete control over it. When players wanted to bet more than I could bet I tried to accommodate my patrons and would get in touch with Mr. Johnson. Frequently players would start with small bets and after making substantial winnings would then want to make large bets. They had nothing to lose but their winnings and I would not want to take that kind of gambling and go broke in one night. When Mr. Johnson would take over the table I would count the checks and the money on the table and Mr. Johnson would then take over the table. When he took over the table I had no further interest in it. I never read the statement, Government's Exhibit O-210, after it was written up. Some three or four 1161 days after I made the statement, Government's Exhibit O-210, I received a copy of it. I notice that in many places "Harlem Stables" was mentioned where "Horse Shoe" should have been used. Defendants' Exhibit S-32 is a copy of the statement which was delivered to me by Agent Sommers. The statement offered by the Government has been changed so that "Horse Shoe" appears where "Harlem Stables" was first written. I had never

had any connection with Harlem Stables in a business way and "Horse Shoe" is the correct name of my place. Where the statement says that I was introduced to Brantman by John Schiffman it should say that I was introduced to Radomski by Schiffman. I never made the statement to the effect that when the play got too heavy for me Mr. Johnson would handle it "for me". I have been questioned a number of times concerning my income tax reports. I also testified before the grand jury. I was questioned about Mr. Johnson's alleged ownership of the gambling houses which I operated. I was told with respect to my answers that if I did not tell the truth about what I knew about those gambling houses I would be indicted. I was indicted. There was another indictment returned against me besides the one on which I am being tried. Defendants' Exhibit S-33 is a copy of that indictment.

Mr. Thompson: We offer in evidence DEFENDANTS' EXHIBITS S-4(a), (b), ETC. which are the receipts for the Dev-Lin rent, S-12, S-13, S-14, S-15, S-16(a) and (b), S-17(a) and (b), S-18, S-19, S-20, S-21, S-22, S-23, S-24, S-25, S-27, S-29(a) and (b), S-30 (both sides of the check), S-31(a), (b), (c) and (d), and S-33.

The Court: Any objection?

Mr. Plunkett: We haven't seen them.

1162 Mr. Thompson: I should like to state in respect to all these earlier numbers which are receipts for certain various services and purchases that we have many other receipts of a similar character here in court which the Government are at liberty to examine but which we shall not offer because they are of the same general character as those offered.

Mr. Plunkett: We may save a little time if we could examine these during recess.

The Court: All right.

Cross-Examination by Mr. Plunkett.

I have known defendant Hartigan for about fifteen years. I first met him in a gambling house at Madison and Paulina streets called Hickory Slim's. We were both gambling there. I think George Handeler introduced us. After that I saw Mr. Hartigan quite often. Our friendship grew especially after I went into business on Division Street and he used to play poker there. I don't know

whether Mr. Hartigan was employed when I first met him. I never knew where he worked in later years. We started visiting at each other's homes about six or seven years ago, that is, after I took over the Horse Shoe. Before I opened the Horse Shoe I met Hartigan at various gambling houses. There were several on Twelfth Street. I met him at 12th and Kedzie. That was a lunch room and gambling house. I went out there to gamble. I don't know who owned the place. I am not sure where Davey Miller had it at that time. That was maybe twelve or thirteen years ago. That may have been a week after I had met 1163 him at Hickory Slim's. I used to go to Davey Miller's perhaps once or twice a week. Hartigan used to go there about as frequently. I also saw him at Division and Robey. I don't know who the owner was. I became a good friend of Hartigan when he began playing at my place at 2403 West Division Street. That would be in 1925 or 1926. I saw him quite frequently after that. I don't know where he worked prior to the time he opened Harlem Stables. I have known Ed Wait for five or six years. I don't remember whether I first called him at his home or whether I met him at the Lincoln Tavern. When I met him there he had some connection with the place but I did not know what it was. I saw him behind the bar. I went out there to talk to him about the Dev-Lin Club. After that I saw him three or four times a month, sometimes at the Horse Shoe and sometimes at the Dev-Lin. He would just drop in to visit. He never worked for me. I know he was connected with the Villa Moderne some time between 1935 and 1940. I have never been there. I have had no other business transactions with Mr. Wait except in connection with the Dev-Lin Club. I have cashed some checks for him as an accommodation. I knew he was a gambler but I did not know how he got the checks. I have probably cashed checks for Mr. Wait ten or twelve times during the period I have known him. I have never seen Mr. Wait running roulette wheels at the Lincoln Tavern, the Dev-Lin or at the Horse Shoe. I have known defendant Mackay for probably ten years. I think I have seen him perhaps a dozen times in the last five years. I have seen him at the Casino Club and on the street. I have visited the Casino Club two or three times. I knew some of the dealers that worked there. I have known Garrett Meade for perhaps fifteen years. I never knew him in connection with the Casino Club.

1164 When I saw Mackay in the Casino Club in 1935 and 1936 I thought he was the boss. I did not see Meade there. Mackay did not tell me anything about taking over the Casino from Meade. I have known John Flanagan for five or years years. He came to the Horse Shoe at my request. I wanted to make arrangements with him for wire service. I have never been in his place at 4020 West Ogden. I have seen him a few times since he came over to my place five years ago, perhaps five times. The only business transaction I ever had with Flanagan was in connection with wire service. I have known defendant Creighton about seventeen years. I should say I have seen him at least once a month in the past five years. I have met him at Lindy's restaurant, at the Palmer House barber shop and at the theater. I have never had any business transactions with him. I don't know where he worked prior to the time he opened the Southland Club. I knew he had a gambling house seventeen years ago. He used to gamble all around Chicago. I never knew that he was the box man at 4020 Ogden. I have never been there. I never knew where Kelly worked. I have known him for seven or eight years. I don't think he ever worked at the Horse Shoe. I don't know what Kelly was doing prior to the time he opened the D. & D. Club. I first met defendant Brown at his currency exchange. It might have been the first week it opened. Bernice Downey was there. Also the two people who worked in the vault. I don't know whether I bought the first money order that was issued by this currency exchange. I saw defendant Hartigan at the Bon-Air in 1937, 1938 and 1939. I saw him talking to people inside the entrance. I heard he worked in the gambling room. I don't know whether he was there regularly. I don't know what was going on at the Harlem Stables while Hartigan was at the Bon-Air but I imagine they were
1165 gambling. Hartigan never told me what he was doing at the Bon-Air. I have a lot more documents like the exhibits offered in evidence. There are probably a couple hundred cancelled checks. I think they are at Judge Thompson's office. Prior to bringing them down to his office I had them in my file. They have been at the Hollander warehouse since last September. Prior to that they were at my office at the Horse Shoe or at the Dev-Lin. No Government agent ever asked me to see them and I have never shown them to one. I had a conversation with a Government agent and I told him I had books and records.

I was talking to him in my restaurant and the books were right there. I told him then that I had no records pertaining to my gambling business because it was an illegal business. This little sheet of paper on which I wrote down my monthly take is a little record of my gambling business. The agent did not ask to see that. I told him I was keeping it and that I had kept it the same way for years and he was satisfied. I did not show him the Bissell check for \$450. It probably would never have been mentioned if he had not testified here. What I have collected on that check is a certain portion of my income. I have quite a few more checks like that. They are bad checks. Just souvenirs of my business. I showed some of them to Mr. Thompson. I have tried to collect some of these checks. I have sent a collector to no other office than Bissell's. I sent my doorman Frank down there. I tore this little sheet of paper out of the notebook I kept it in. I tore it out in Mr. Thompson's office to bring it here. The other pages are all blank. After I paid my tax for prior years I destroyed the old records. After my tax was accepted I did not think there was any more use for them. I have never had my returns checked a year or two later. As soon as I gave my figures to Brantman or Radomski I tore up 1166 the memorandum because I thought it would not be needed any more. After that I could defer to the copy of my income tax return. It would show the total for the year. Defendants' Exhibit S-31(d), the little sheet containing entries, I think was made up in March or in the month previous in 1940. I think all the entries were made at one time from other sheets I have. I think it was made up at the time I filed my income tax return. I destroyed the sheets from which the information put on this little sheet was taken. They were just pieces of paper, one for every month. The little sheet for January, 1939, showed \$1,206. That was all that was on that sheet. It was about four inches long and three inches wide with one figure on it. I had twelve such sheets at the end of the year. I kept these sheets in my safe. I made one up every month. I did not carry the little notebook with me. I don't know whether the book is now in Mr. Thompson's office or whether it was put in the waste basket. When I came to file my return I had these twelve sheets of paper on which was written the monthly take and I copied those little sheets in my notebook and then gave that to Radomski. In 1939 there were nine sheets, not twelve. I gave a total of the

nine to Radomski. There is no particular reason why I did not tear up that sheet last March, as I did for the other years. I think I had been indicted and I thought I might need it. There was no particular reason for keeping the little book. I did not give the nine little sheets to Radomski because I think the entries were made in the little book before March. Those little sheets were all kept in my safe and they were the only records I had of my gambling business. The only record I kept in the gambling room at the Horse Shoe was what I started with and what I finished with each day. There were sheet writers in the horse book and when a customer made a bet it was written down on a sheet. The sheet writer turned a copy of 1167 each sheet over to the cashier and then the cashier made entries on the sheets. That is not a daily record of my business. When the day is over I receive the money. At the end of the day I could have computed from those sheets how much I had won or lost in the horse book. They showed what I had done at the end of the day. I knew what was going on in the horse book all the time. I destroyed the duplicate sheets made by the sheet writers when the day was over or a few days later. Each cashier audited his own sheets. There was no occasion for me to reaudit them. I trusted my cashiers. The man in charge of the book could total up the duplicate sheets and see what was being bet in each race. The originals went to the cashiers. The duplicate sheets made at my book did not go to 4715 Irving Park and were not destroyed there. The only sheets that ever went to 4715 Irving Park were those showing lay-off bets. I did not send all of my sheets over there. Each of my cashiers audited his own sheets and I took his word for it. No cashier could hand a friend \$500. He only had the original. I had the duplicate. He could not change it. He could not take a bet from a friend and mark it a win on the original sheet. The cashier paid out the winning bets and he entered his pay-outs on his sheet. He checked his own sheets. I did not audit them. The man in charge of the book would know what bets were made on the different races. He would see the pay-offs. Eddie Gates was in charge of my book. He checked over the sheets occasionally. He worked under my direction. It was my instructions that he check the sheets. I was not there every day to see whether he did or not. It was my duty to look after everything there. I was the owner of the place. I

had confidence in the people working for me. In the
1168 side games,—roulette, dice, etc., the money changers
or cashiers as you call them, kept pay-out sheets. He
also had a scratch sheet that was used to total up the
day's business. The stub of the pay-out book was the same
as the pay-out slip. It is a book of small sheets stapled
together and perforated across the middle, and numbered
from 1 to 50. The amount paid out is marked on each end
of the sheet which is about an inch and a half long and
probably an inch wide, and one end is torn off and given
to the cashier. I could get money from the cashier without
a cash-out slip. Mr. Johnson could not get money from the
cashier without a pay-out slip. I heard Cobb testify about
Johnson taking money from the cashier to hand to Cheesey,
but I know no Cheesey and such a thing never happened.
At the end of the day I destroyed the pay-out slips and the
cashier's sheets after I had checked them against each
other. I just threw them in the wastebasket and they were
later dumped in the garbage box on the rear porch and
picked up by the city truck. I did not expect people to be
looking in wastebaskets to see what I was doing. I was
not afraid a Revenue Agent would find these slips. I had
plenty of room to keep these daily records but I did not
think they were of any use to anyone. The cashier's sheets
would show how much had been made in the side games at
the end of the day. From the sheets in the horse book and
the sheets in the side games I knew how much had been won
or lost at the Horse Shoe at the end of every day. If all the
sheets had been kept they would not show exactly my in-
come for the year. Sometimes I made pay-outs without
making slips. If a cash-out was called for at a table a
ticket was made out and delivered to the money changer
and the money brought back to the table. At the begin-
ning of the day the box man starts out with a certain
1169 amount of cash or table bankroll. He might start
with \$500 or \$1,000 or \$2,000. My own judgment
would determine the size of his bankroll.

Q. And thereafter in the course of the play it was the
duty of the box man, was it not, when the money was won
at that table to put it in this box?

Mr. Thompson: We object to all this. It is improper
cross-examination and immaterial to any issue in this case.

The Court: Overruled.

Money that was won and also that was paid for checks
went into the box on the table. When the box was taken

from the table the cashier did not make an entry. I took the money from the box and put it in my pocket or in the safe. The cashier had nothing to do with it. When a player won say \$50 the box man called out, "\$50 going out." If a shill won \$50 he merely called out, "\$50." When the box man called, "\$50 going out," the floor man wrote a pay-out ticket and half of it was given to the cashier. He kept the ticket and paid out the \$50. He made an entry of the ticket on his sheet. At the end of the day the sheet shows his pay-outs and nothing else. At the end of the day I know how much money he has paid out and I know how much he has kept. Sometimes there are two cashiers on duty. Sometimes I have acted as cashier and sometimes the floor man and sometimes two other people were there. I don't call them cashiers. I call them money changers. If I was busy a money changer would count the money in the box that was taken off the table and put a slip on top of it giving the total. He made no entry of this total. There were no other records of the gambling business at the Horse Shoe kept. I had a card index of persons who cashed checks which showed the amount of credit to be extended. Usually I had their 1170 business card or other identification attached to the credit card. If I wanted to get a credit report on a customer I would get it from Mr. Brown or Mr. Marcus. I don't know where this credit file is now. It is probably in the warehouse. There were probably a hundred credit cards in the file.

Mr. Thompson: We object to this as not proper cross-examination and immaterial.

The Court: Overruled.

If Mr. Kelly telephoned me from the D. & D. and asked about the credit of some person I would tell him. If he had asked about how much Bissell was good for I would have told him he was good for nothing. If any of defendants had called about cashing a check for someone in their place I would have given them information whether I had cashed checks for the individual. At the end of each day I tore up the cashier's sheets and pay-out slips for the side games and the cashier's sheets for the horse book. I was not told by Brantman or Radomski, my tax consultants, that I was required to keep books and records of my gambling business. Whatever they told me to keep I kept,—that was my total of what I made at the end of

each month. The lay-off transactions I had with Flanagan were a part of his service. The race horse service I bought from him included his taking lay-offs and also daily doubles. I paid \$5 a day for this service. There were two wires,—a broadcasting service and a two-way phone service. I did not know the voice that spoke over the loud speaker. On the two-way phone I have talked to Mr. Flanagan and also to Skinny Moss. I don't know Joe Conroy. I have never seen the person whose picture you show me,

Government's Exhibit O-125. I don't know him un-
1171 der the name of Morgan or Conroy or any other

name. I talked with Flanagan over there both in the afternoon and in the evening. I would send over pay for this service daily. Occasionally two or three days would pass. The manager of my book would drive over after the races closed and give it to Flanagan. At the same time he delivered the hard cards and the lay-off sheets. He did not take a receipt for the service fee. I have never been in the place on Irving Park Boulevard nor was I ever in the place at 2141 South Crawford. The sheets taken over there were for lay-off bets and daily doubles. They were given to Mr. Flanagan. I sent them over to verify the bets and the amounts. I imagine Flanagan had a record of these bets. There were several sheets containing lay-off bets and daily doubles. The bets recorded on the sheets would be lay-off bets or daily doubles. They would be separate sheets. When the sheet writer took a bet he did not know it was going to be laid off. The book manager arranged that. When a lay-off bet was made a new sheet was made. Defendants' Exhibit S-31(a) is a sheet showing the expenditures at my apartment building. I made that up from my check book stub at the time I compiled my income tax information. These are not expenditures of the Horse Shoe. All the expenditures at my apartment building were paid by check. I made no list of expenditures at the Horse Shoe. They were paid by cash. I just took money and paid the bills. There was no occasion to keep records. I did not have to account to anyone. Sometimes I okayed a bill and the money changer would pay it and keep the receipted bill and then I would put it in a file. I did not always get a receipt for payments I made. I never kept a list of expenditures at the gambling house. I was told by a Government Agent that
1172 I did not need to do that. It was in 1938. He assessed me \$4,000 and I paid it. I think it was for the

year 1937. He figured out the amount by taking the number of sheet writers and the number of cashiers and the number of bets on each sheet and how much money I handled and then said I owed another \$4,300. I paid this rather than get closed. I opened the Horse Shoe gambling house either in December, 1934, or in the beginning of 1935. When I bought the business from Mrs. Barnes there were some tables and chairs in the room. I paid her a thousand dollars. I have not seen her for more than a year. I heard she was in West Virginia. She gave me a receipt for \$1,000 but I destroyed it. That was five years ago. She sold Hartigan the restaurant. Prior to the time I bought the Horse Shoe I had owned the Anchor Sandwich Shop. I think I sold it about two years before I bought the Horse Shoe. It was located at 4750 North Kedzie, a half block north of the Horse Shoe and across the street. There was a card room in the rear. I have made no effort to find out exactly when I sold this shop. Before I opened the Anchor Sandwich Shop there was a Hollywood Club operated there, I think in the early 20's. No Hollywood Club was operated there in 1930. There was a Hollywood roller skating rink up the street a half block. I opened the Anchor Sandwich Shop in 1926 or 1927 and was open five or six years. My dates may be wrong but I was there five or six years. I was also on Division Street about the same length of time. I am not able to fix the dates any more definitely. I would say I had no place of business of my own a year or a year and a half before I opened the Horse Shoe. During that period I was gambling. I used to play poker in a flat above 4750 North Kedzie. Tom Barnes was running it. I had sold the shop to him and then I went back and gambled at 1173 his place. I would say I had the Anchor Sandwich Shop early in 1933 and that I had been running it about five years before that. I paid rent to Mr. Faherty. Government's Exhibit R-35 is my income tax return for the year 1932. It shows "Miscellaneous commissions, \$8,373." That was gambling winnings. I was then running the Anchor Sandwich Shop and had a gambling house in the back. There is no return on there for proceeds from the Anchor Sandwich Shop.

Q. Do you have the books and records of the Anchor Sandwich Shop?

Mr. Thompson: We object to all of this as immaterial and improper cross-examination.

Mr. Plunkett: I think the direct examination has opened the entire field.

Mr. Thompson: The direct examination was on things material to this case but this is altogether immaterial. Whether Mr. Sommers put things in his return is not an issue in this case.

Mr. Plunkett: His returns are in evidence.

Mr. Thompson: We didn't put them in evidence.

The Court: Let's see the tax returns. What is the specific question now?

(Question read.)

Mr. Thompson: Now if the Court please, that just can't be material to anything in this case and it is obviously outside the direct examination. Mr. Sommers is not on trial on his own income tax returns way back there in 1932.

The Court: Objection overruled.

A. The answer is "No". I kept no books and records.

Q. I show you Government's Exhibit R-36 and ask you if that is your tax return for the calendar year 1933?

1174 Mr. Thompson: We object to that as improper cross-examination.

The Court: Overruled.

Q. You signed that, did you?

A. I did.

Mr. Thompson: We object to that as improper cross-examination.

The Court: Overruled.

Q. You swore to it, did you?

A. Yes, sir.

Q. That shows an item of miscellaneous betting commissions, \$6,492. Do you know what income that was, where it came from?

Mr. Thompson: So we shall not have to interrupt, may we have it understood that all questions regarding this return are objected to on the ground that it is improper cross-examination?

The Court: Yes. Overruled.

A. The item "Miscellaneous betting commissions, \$6,492," came from betting, gambling here and there. I had a small restaurant. The receipts appear in that figure. I could not tell you whether I made a profit or a loss in 1933 on the operation of this restaurant.

Q. I will hand you Government's Exhibit R-37 and ask you to state whether that is your tax return for the calendar year 1934.

Mr. Thompson: Now if the Court please, so I shall not have to interrupt, I object to any question regarding this income tax of Mr. Sommers as improper cross-examination and as carrying the implication that he made an improper return for that year. This is altogether outside the issues in this case.

The Court: The examination in respect to this other year did not develop as I anticipated. What is your theory?

Mr. Plunkett: Well, it is the theory of the Government that we have proven in this case that defendant Sommers was working in the Horse Shoe restaurant.

The Court: Let the reporter step over here.

(Whereupon the following proceedings were had out of the hearing of the jury:)

Mr. Plunkett: The Government has shown by its evidence that defendant Sommers was employed in the Horse Shoe gambling establishment as early as 1932. He was working there with Tom Barnes. We have had several witnesses who have testified to that. This witness has stated he worked in no capacity at the Horse Shoe but bought the place in December, 1934. Our evidence has shown that he was working there and the testimony of Brantman was that he was working there and that he made out these returns for him there. We have the right to test the credibility of the witness by his own tax returns which are admissions against him.

Mr. Thompson: Admissions of what?

Mr. Plunkett: Admissions for whatever they are. He made those statements. We claim we have the right to show by these tax returns that the tax returns are entirely consistent with the Government's theory that he was employed at the Horse Shoe and not running the Anchor Sandwich Shop. We show by the returns that there is nothing showing he was in the Anchor Sandwich Shop in the years he stated.

The Court: Overruled.

Mr. Thompson: We object. It is all without foundation and the statements of fact are not according to the record.

(Whereupon the following proceedings were had in the hearing of the jury:)

1776 That is my return for 1934. I signed it and swore to it. The \$6,785, miscellaneous speculative earnings, are profits from my business and my gambling. I

see the word "Salary" there. I never wrote that and I never saw it there until it was brought into this courtroom. I never told Brantman that my income was salary. I have never told him that any amount I ever returned was a salary. Government's Exhibit R-38 is my return for 1935, which I signed and verified. There is no salary on there. Under the item "Salary, wages, commissions, fees, etc." appears \$4,880. I received this money from the people I won it from. I was gambling here and there and everywhere. I was then the owner of the Horse Shoe. The Horse Shoe might have been closed and it might have been open part of the time. If it was open I was certainly there. If it was closed I was gambling other places. Government's Exhibit R-39 is my return for 1936. It shows miscellaneous income as speculator, \$11,000, and a net loss from business \$1,495.60. I think the loss was from the restaurant. Government's Exhibit R-40 is the return for 1937. The income listed, speculator, \$19,274.38, was taken from my little monthly sheets. It added up to that amount. The return shows a loss of \$9,274.38 from the Horse Shoe restaurant. The difference left an even \$10,000.

Q. Was that a coincidence that that \$9,274.38, both that loss from the Horse Shoe and the gain from the gambling?

Mr. Thompson: I think this is all improper cross-examination. I can't see the object of it.

The Court: Overruled.

A. I think I made the loss equalize the other item so that it would be easier to figure and I think I gave the Government the best of it. I did not take any of the best of it.

The Witness: The difference of \$10,000 is not just 1177 salary from William R. Johnson. I never received one penny from Mr. Johnson. I charged off Christmas dinners, etc., which I served free as expenses. I cannot explain any better the \$9,000 loss made in the restaurant. Government's Exhibit R-41 is my 1938 return. It shows a restaurant loss of \$1,018.29. I affected this saving by getting rid of some of the help. The profits were going into the garbage can. Government's Exhibit R-43 is my return for 1939. It shows a profit on the restaurant of \$657.37. The larger figure, \$11,243, is my gambling profits. I did not mention the Anchor Sandwich Shop on my returns for 1932 and 1933. I just put down a grand total of what I earned. When I was running this shop

I think Barnes was located in the 3800 block on Lawrence Avenue. He also had a place across the street from me. He had three or four places. He moved from one to the other. He was not operating them all at one time. I don't know whether Tom Barnes was sick quite a while before he died. I think I went to his funeral. I had not missed him around the Horse Shoe after June, 1934. I know the witness Hayes. I know nothing about the conference which he testified about between Johnson and Hartigan and Barnes. I was not working on the lookout stand at the Horse Shoe when such a conference took place. I know nothing about who operated the Horse Shoe while Mr. Barnes was out because of illness. I might have been in the Horse Shoe during that period. I might have gambled up there. I paid no attention to who was running the place. It did not concern me. I played poker against other patrons up there. I think it was the last week or ten days in December, 1935, I operated at the Lincoln Tavern. I was closed in the city. I got the place from Mr. Hartigan. He had been operating out there but I don't know how long. I asked him for the 1178 use of the place for a week. I think I called him at home and made the arrangement over the telephone. There was nothing in writing. When I got out there the room was empty. I moved some of my equipment there. I don't think the restaurant was in operation but I did not move my restaurant equipment there. I had no restaurant at that time. I think I may have served sandwiches at the Lincoln Tavern. I don't know how long Mr. Hartigan had not been operating when I went out there. When I called him up I knew he was not using the place. I don't know where his equipment was. I operated about a week or ten days in December, 1935. Then I think I moved back to the Horse Shoe. The police chased me out of the Horse Shoe when I went to the Lincoln Tavern. They did not raid my place or arrest me. They just chased everybody out. I may have been at the Dev-Lin after I was at the Lincoln Tavern. I am not sure. I may have been out of action for a while or I may have been in some other spot. The chart does not show any operation by me at the Lincoln Tavern. I made up that chart with respect to the Horse Shoe and the Dev-Lin from my Social Security records. They were always carried under the name of the Horse Shoe but our

key sheet showed whether I was at the Horse Shoe or at the Dev-Lin. Mr. Kimmel drew the chart. The dates were taken from the Social Security books that are in evidence here. My bookkeeper made up the key sheet with the assistance of someone in Mr. Thompson's office. The only way I know the chart is correct is by comparing it with the key sheets. According to the chart I first opened the Dev-Lin June 15, 1937. I am not sure whether that is the first time I ever operated there. I don't know what the key sheets show in that respect. I did not compare the key sheets with the chart. I think the chart is accurate. I don't know anything definitely. I don't know

whether I was at the Dev-Lin a year before June, 1937. I can't remember. I bought the place from

Ed Wait. I needed another place and I bought it. I don't know whether I saw him at home or at the Dev-Lin. I received his telephone number from Mr. Engstler. I went out and looked at the place and talked to Engstler about it. He told me he had a tenant there and then he gave me his phone number. I did not know Wait prior to that time. After that I had a conversation with Wait about the place. I bought the lease from him for \$5,000. I gave him \$2,500 cash and the other \$2,500 later, both payments in currency. I think I got a receipt but I haven't got it now. I operated at the Lincoln Tavern a second time for a short period. I think it was about the middle of 1936. It was a warm month. I made arrangements with Mr. Hartigan as I had before. I think he was at dinner at my house and said he was not using the place at the time. My key sheets would not show the date in 1936 because the Social Security records did not start until 1937. The last time I used the Lincoln Tavern was a few weeks in the summer of 1937. I am a little confused about these years. When I went to the Lincoln Tavern I moved out some of my equipment. During the years 1937, 1938 and 1939 I operated at the Dev-Lin. It was not operated by anyone else during that period. I beg your pardon, I did give it to Anton Moody for about three months. He asked me whether he could operate a horse book there and I told him he could. He made application for public service and opened up there and was there two or three months. I knew that he was a book-maker but that is all I knew about him. He paid me rent and he paid his own light bills. After he left there I

don't know where he went. I don't recollect his ever working for me. I would say he did not. I had known him for perhaps a year before I leased the Dev-Lin to him.

In addition to paying my own bills I have paid some 1180 bills for Mr. Hartigan. I have paid telephone bills for him and bus service bills and light bills. I paid these bills because he asked me to. I would be out to his place and he would give me the money and ask me to pay the bill for him. I may have paid telephone and light bills for the Lincoln Tavern. I don't think I ever paid a bill for the House of Niles. I am pretty sure I did not. Government's Exhibit S-24 is a bill which I paid for the Dev-Lin. I think it covers from July 31 to August 30, 1939. I was then located at 6445 Drake Avenue, Lincolnwood. The bill was mailed to Box 118, R. F. D. I think that is Mr. Engstler's box. The Dev-Lin is located in Lincolnwood but Morton Grove is the postoffice. It is a contract for telephone number Kildare 9445 at 4301 Harlem Avenue, which is the Harlem Stables. Mr. Hartigan wanted telephone service quick and I made out the application and signed it and got his phone for him. I was able to get service fast because I knew a few people at the telephone company. I didn't know Mr. Moore who testified here. I don't know G. W. Ryder. I made out another application or two for telephone service at Harlem Stables. I don't know who took the contracts. I signed the contract but I don't know whether G. W. Ryder whose name appears on there signed it for the company. I got fast service. I don't know how long the telephone installed at Harlem Stables remained in my name. My signature is on Government's Exhibit T-7. I saw Hartigan sign that. It was signed April 6, 1939. The service was changed from my name to his. I had no discussion with Hartigan whether the phone should remain in my name or go back to his. I think I received the bills for this phone while it was in my name but Hartigan paid them. I paid some of them with money he gave me. I did not complain of this phone being left in my name 1181 because friends do not complain. There was a telephone up at the Horse Shoe in Hartigan's name. When Hartigan had the restaurant at 4701 North Kedzie, I think the phones were under Barnes' name and they were changed to Hartigan's. It was Barnes' restaurant and Barnes' loft. I don't know whether Hartigan ever had

anything to do with the gambling quarters upstairs. I think the telephone number was Juniper 1818. Government's Exhibit T-15 carries Hartigan's signature. That is the phone I spoke of. It says it is at 4721 North Kedzie. Hartigan had a restaurant at 4701 North Kedzie. That was a half block from 4721 North Kedzie. I don't know what connection these two places had before I was at 4721. This contract is dated March 13, 1935. I am not sure whether I was at the Horse Shoe then or whether I went there in May. I am not sure of the dates. I have no way of making sure. Mrs. Chalmers' rent records do not refresh my recollection. I think I signed a lease with Mrs. Chalmers when I took over the place. I don't know whether I started May 1 or January 1. That is five years ago. I probably had the phone put in my name in 1938. Government's Exhibit T-15 bears my signature. Hartigan never paid any bills for me. I have paid bills for him. He lives in Berwyn and I live in Chicago. I paid the bills for the Horse Shoe and the Dev-Lin. I paid some of them for the Lincoln Tavern and Harlem Stables. I do not think I ever paid a bill for the House of Niles. I do not remember the circumstances of changing the telephone at the Horse Shoe to my name. There was no particular reason why I did not take out the telephone for Harlem Stables in Hartigan's name. I could have signed his name and if I had known there would be an issue about it I would have done that. I remember Jungwirth, the drayman. I employed him to haul things back and forth. I employed him to haul from Kedzie and Lawrence to Tessville and from Tessville to Kedzie and Lawrence and to the warehouse. I might have loaned a table to someone and had him deliver it. I think I loaned a table to Hartigan at the Lincoln Tavern. I have loaned tables to church bazaars and other organizations that were running affairs to make money. I don't remember loaning any equipment to other defendants. I may have loaned thirty-two chairs to the D. & D. Club. The only chairs I could have loaned would have been bentwood chairs. I used them in the horse book. I don't remember sending tables to Ed Wait at the Villa Moderne nor getting any rugs delivered from the Villa Moderne to the Horse Shoe. I have never sent anything to the House of Niles or to the Casino. I don't think I sent a Twenty-one table over to the Casino. Government's

Exhibits O-157 and O-162 are duplicates of bills which I may have received from Jungwirth. I know nothing about the writing on the back of those bills. It does not refresh my recollection. I notice "D. & D. Club, 32 chairs." I don't remember but I may have loaned Kelly some chairs. Marcus operates the Albany Park Currency Exchange. I made an arrangement with him to cash my checks for 25 cents a hundred. I carried my checks over at first and later I sent them over by one of the Downey boys. It was M. Downey. I knew him by his nickname "Koog." I don't know whether his first name was Maurice. I think he was working for me when I introduced him to Marcus. I think he was driving. I would ask him to pick up the checks. I told Marcus that I would stand behind all the checks that Downey brought in. I did not know then that Downey was getting checks from other persons to cash with Marcus. If he had brought in checks from other persons I would have stood behind the checks. I had vouched for Downey. Quite often checks cashed by Marcus were not paid. Marcus would phone me about these checks, if they were checks I had sent over there. He would not call me about checks that I had not sent over. I did not keep a list of the checks. I just knew 1183 whose check I had cashed. Sometimes I brought eight or ten or fifteen or twenty in a day. Sometimes it would be two or three days before I would hear about the checks. I remembered every check I cashed. I remembered the maker and I knew whether it was my check when he would phone me about it. He never called me about the checks of anyone else. Later on Kelly sent checks over to Marcus' exchange but Marcus called me about Kelly's checks. I guaranteed Mr. Downey but I did not guarantee Mr. Kelly. I think checks were also being brought in from Harlem Stables. I know nothing about Marcus' little numbering system,—one, two, three,—which designated where the checks came from. I never saw one of these numbers on a check that I got back. When I left Marcus I did not give him any reason. I just told him I was going to do business in a building around the corner. I was solicited by Mr. Hartigan to take my business to Mr. Brown. Hartigan did not introduce me to Brown. I just went in and told him Hartigan sent me and I cashed some checks there. I made the same arrangements with Brown respecting Downey. The Lawrence Avenue

Currency Exchange operated by Brown was located in a bank building about 300 feet from where Marcus was located. I did not then know who owned the building. I have heard that Skidmore owns it. I have never heard that Johnson owned it. I think I gave Brown checks to cash the first day I introduced myself to him. About a month later I loaned him an old check protector which I was not using. The checks cashed for me were endorsed, if the checks were made out to my name, on the back of it. If the checks were made out to "Cash" I wrote the initials "J. S." or sometimes just "J." or sometimes just "S." Downey used the initials "M. D." I could recognize the initials on the checks. Government's Exhibit O-229-12 has my name, "Okay, J. S." on it. The check form is a blank in which you write in the name of the bank. 1184 I kept such blanks at the Horse Shoe for those who did not have their own check book. The "Okay J. S." on Exhibit O-229-11 is mine and also on O-229-12 and also on O-229-10. Government's Exhibits O-229-1 to 9 were not okayed by me. They are made out by the same party who made out the others but I have no way of knowing whether they were cashed at my establishment. The form used does not help me. Everybody around Chicago used that blank form. You can buy them at any stationery store. None of the handwriting on those checks is mine. These checks were cashed at the Lawrence Avenue Currency Exchange. I never cashed checks without endorsing them. I want also to mention that the checks which bear my signature do not indicate that the maker lost that money. I recognize the "M. D." on O-228-19. That is the M. Downey I have mentioned. The check was not cashed at my place. Government's Exhibit O-228-18 bears M. Downey's initials but it was not cashed by me. I don't think O-228-17 was cashed by me. That might be my "J." on the back but I can't say. I cashed Government's Exhibits O-228-4, O-228-5, O-228-5(a), O-228-6, O-228-7, O-228-2 and O-228-13. There is a question about O-228-12. I don't know whether that is my "J. S." No other person had the authority to write "J. S." on a check at the Horse Shoe or at the Dev-Lin. The "M. D." looks like M. Downey's on all of them. The "J. S." on O-228-3 is definitely not mine. I don't remember the year when Anton Moody was at the Dev-Lin. It was about three months in the summertime. My chart shows that I was at

the Dev-Lin from June 15 to September 9, 1937. I think I was operating there at that time. Moody was not there when I was there. Moody was never an employee of mine. I had the same employees at the Dev-Lin as I had at the Horse Shoe, but I would say some new ones. My 1185 Social Security books show who worked for me there.

The Social Security book for 1937 does not have a key sheet in it. I don't know why it is not in here. It should be. Without the key sheet I cannot say what period I was at the Dev-Lin and what period I was at the Horse Shoe. Shorty Barre's sheet shows that he worked from January through June 1937. Here is Harry Becker. He worked from January through August 1937. It is on that basis that I compiled the chart showing that I was open to September 9. I am sure we were operating all through June, July and August, 1937. I would not know whether Moody was there at the Dev-Lin because he could have been there while I was at Kedzie and Lawrence. My employees could be in the Social Security book and be working at the Horse Shoe. This book covers both places. My chart shows that I was at the Dev-Lin from June to September, 1937. Government's Exhibit O-240(a) is a Social Security return for the Dev-Lin Club. It covers the month of July, 1937. It is signed by Anton Moody. Government's Exhibit O-242-2 is a return for August, 1937, for the Dev-Lin Club. I did not file it. I filed the returns for the month of June, July and August. I don't remember whether I filed them monthly or quarterly. Copies of the returns are all here in court. Edward Gates was one of my employees. The records show he worked from January 1 to June 11, 1937. I don't know where he worked after that. If the Horse Shoe remained open with horses in the summer Gates was in charge. I can't remember back in 1937. I remember there were times when the Dev-Lin and the Horse Shoe were both operating at once but I don't know when. I think it happened only once or twice some time between June, 1937, and the present time. It was for only a few days and did not mean much. Sometimes I would move part of the games to the Dev-Lin and leave the Horse Shoe running with horses only a few 1186 days to see how much pressure there was. I cannot fix the year when Anton Moody operated at the Dev-Lin for about three months. When he was operating it was in the afternoon only. He and I were not operating

there at the same time. The Horse Shoe and the Dev-Lin records were kept under one number with the permission of the Government representative. I went to the office of the United States Attorney with my bookkeeper and got the figures out of my Social Security records to prepare the chart. I never filed any separate sheet for the Dev-Lin. The key sheets for 1938 and 1939 will tell exactly the dates. I don't know where the key sheets are for 1937. You have had the books for a year and there must have been a key sheet in the book. I have a sheet here which I found among some papers at home. Government's Exhibit O-241, which is the key sheet for 1937, shows that I closed June 14. It does not show the opening of the Dev-Lin. If I operated the Dev-Lin in the summer of 1937, Moody did not. When Moody had the Dev-Lin it was his place. I don't know anything about his filing. I do know that when the Horse Shoe was closed and I was at the Dev-Lin that I filed for all of my employees. Government's Exhibit O-219 appears to be a check which I endorsed. E. H. Wait is written above my name. The maker is Carl Laemmle. The check is for \$500 and is dated May 12, 1936. I cashed that check for Mr. Wait and gave him the money. I don't know what he did with the money. I also cashed O-220, O-221, O-222, O-223, O-224, O-225 and O-227. I don't think I cashed O-226. Mr. Wait brought those checks in to me when they were due. All of the checks are for \$500 except one which is for \$525. I know nothing about Wait playing roulette with Carl Laemmle at the Drake Hotel. Wait asked me to cash the checks and I did. He paid the fee. He did not tell me anything about the checks and I did not ask him. I was operating the Horse Shoe during May and June, 1936, and I was probably around there. I don't remember whether he came there with the checks. All I know is I cashed them and I know that only because my signature appears on them. I have never met Carl Laemmle and I don't know what Wait did with the proceeds of these checks after I gave the money to him. William Goldstein was my attorney in the Van Spankeren suit. He was the one who was dismissed out of this case and who testified here. Elmer Johnson was there one night. He is the brother of defendant Johnson. I have known William R. Johnson over fifteen years. I have known him well since 1935. I knew him as a gambler before. He used to play

at Harry Block's when I worked there over fifteen years ago. I don't know what brought Mr. Johnson to the Horse Shoe to gamble the first time. Prior to his taking over a table there my business was not large enough to have anyone else take over a table. He was the only man in the gambling field who had the reputation that he bears. He is the only man who ever took over a table at my place. I think the first time I talked to him was when he asked me whether there was any high playing at my place I did not care to handle. I told him there was nothing at that time. Later I called him back and he started banking the game. He never paid for this privilege. He did not pay the employees that were working on the table whenever he took it over. I paid them. I have visited at his farm perhaps a dozen times. I have ridden horseback there twice. My daughter was with me. I never met Creighton out there. I met Mr. Wait out there getting some eggs one day. He is the only defendant I remember seeing out there. I bought eggs and butter at the farm for my home. A few times Johnson sold butter and eggs and chickens to the Horse Shoe restaurant. I think Downey was 1188 going out to the farm and I asked him to bring some back with him.

Q. How many saddle horses did he have out there?

Mr. Thompson: We object to all this as immaterial and as improper cross-examination.

Mr. Plunkett: I have a right to test the witness' memory about it.

Mr. Thompson: You have tested him a lot about everything.

The Court: Do not spend a great deal of time over it. Overruled.

Witness: Four.

I never put Bissell's check, defendants' Exhibit S-30, through for collection. He signed it as a note for his loan. The last time I saw him was when he gave me that check. He won \$1,500 from me more than once and I remember paying him in \$100 bills. When I paid him \$1,500 was not the last time I saw him. We had a little light over the door at the Horse Shoe which flashed. It was a light to let me know when the police were coming. It was not a light to indicate that a bus was waiting to go to the Harlem Stables. There was a bus service at the corner which took Keno players to the Harlem Stables. People

would stand on the sidewalk and wait for the bus. Sometimes they waited in the Horse Shoe restaurant. The light in the gambling room was not to signal bus patrons. The slot machines I operated at the Horse Shoe were my machines. I sold four of them. I think I have two in the warehouse. I made a long distance telephone call from the Casino to Louisville to a fellow who gave me a bad check. I paid Mackay for this call. I visited the Casino a few more times. I have been at the House of Niles just visiting perhaps three or four times. I kept no records of the checks which I cashed for merchants around 1189 Kedzie and Lawrence. When I took checks over to Marcus to cash I kept no record of them. I was at the Lawrence Avenue Currency Exchange nearly every day. I cashed checks there and ordered the kind of money I wanted. Sometimes I would have Downey bring back the cash and sometimes I would go over and get it myself. There was a short time when Bernice Downey came to the Horse Shoe and picked up my checks from the cashier.

(The following proceedings were had out of the presence of the jury:)

Mr. Plunkett: One of defendants' exhibits, S-33, is an indictment against defendant Sommers. We object to the offer on the ground that it is immaterial. We make no objection to the other exhibits.

Mr. Thompson: Our theory of the materiality of this indictment is that the two indictments were returned by the same Grand Jury and undoubtedly on the same evidence. In one of the indictments the return is that Bill Johnson was the owner of the gambling houses and that all the checks cashed and currency exchanged was his income from the Horse Shoe gambling house, whereas in the other indictment the Grand Jury finds that Sommers was the owner of the gambling house and received all the income indicated by the exchanging of currency and cashing of checks by Sommers. They guessed both ways. They try Sommers in this case on the theory that Johnson was the owner. If they don't make that good then they will try Sommers on the theory that he was the owner. This evidence is based on presumption piled on presumption and shows Johnson had a certain income from the houses Sommers operated, whereas, assuming Sommers owned the houses, then the checks cashed and the currency exchanged makes it his income. In one breath the Grand Jury

1190 says that Sommers was on a salary and in the other breath that he had a million dollar income.

Mr. Plunkett: There is no statement in the indictment that defendant Sommers owned any gambling house.

Mr. Thompson: The indictment says income from gambling.

Mr. Riley Campbell: An indictment is not evidence of anything.

Mr. Thompson: It is not evidence against the defendants but it is evidence against the Government as to having a couple of absolutely opposite theories.

Mr. Campbell: The cases don't hold that.

Mr. Thompson: Probably no one ever tried this stunt before and there have been no cases that could pass on it.

Mr. Campbell: It has been done before.

Mr. Thompson: They have offered in evidence income tax returns of defendant Sommers on some theory, I assume on the theory that Sommers was reporting such a low income that he could not have been the owner of a gambling house, a violent assumption because your Honor has carried through the liquidation of two or three railroads that had a very large business but no profits.

The Court: The objection will be sustained. You say there is no objection to the other exhibits.

Mr. Plunkett: With the exception of this chart which now has been demonstrated—

Mr. Thompson: We haven't offered the chart.

Mr. Plunkett: It is being shown to the jury five hours a day. Whether it has been offered or not makes very little difference.

Mr. Thompson: So you were showing your chart with buttons to the jury for four weeks.

Mr. Plunkett: That was in evidence.

Mr. Thompson: It was in evidence the last day.

Mr. Plunkett: The map was in evidence when it was first put up.

1191 The Court: If the chart is not offered and you ask that it be taken down it will be taken down.

Mr. Thompson: If the Court please, we propose to ask Mr. Sommers some more questions on redirect and clarify the record. Mr. Sommers has not said he knows nothing about it.

The Court: Take it down until you offer it in evidence.

Mr. Thompson: Well, I want to ask Mr. Sommers about it.

The Court: Take it down.

Further Cross-Examination by Mr. Plunkett.

I know John W. Geary, also known as Bud. He worked for me. I do not remember how long he worked at the Horse Shoe. He might have worked as a shill or a floor man or a dealer. The record for 1937 shows that he worked from March 5 to July 17, 1937, as a cashier in the horse book. I don't think he worked for me before March 5, 1937. He could have been working for me at the Dev-Lin or at the Horse Shoe during that period. The book does not separate them. He did not work for me in 1938 or in 1939. He is the Bud Geary who worked at the Bon-Air and sent down the cash for Ed Wendt. I called Geary and asked him to send the cash down and he said that Wendt had left him that instruction. Wendt owed me \$700 at that time. It was not a gambling loss. It was a loan. I have known Barney McGrath for ten or twelve years. He worked for me as a box man and a floor man at the Dev-Lin and the Horse Shoe. I cannot recollect the dates. I have never seen McGrath at the D. & D. I opened the Anchor Sandwich Shop about 1926 and ran it five or six years. I had telephone service there all the time but I don't know whether I surrendered it when I sold out. I sold it to Tom Barnes but I do not recollect the date. It is not very 1192 easy sitting here remembering dates for three days.

Redirect Examination by Mr. Thompson.

The receipts and other papers which I was asked about and which were delivered to your office were here in the courtroom and they are here now. I don't know where all of the checks that were shown to me and which do not bear my name or initials came from nor do I know who cashed them. These checks were shown to me by the Government and they were in their possession. I don't know to whom these checks were delivered after they were cashed. Government's Exhibits R-35, R-36, R-37 and R-38 were signed by me in blank and delivered to Brantman. At no time did I see any of the figures put on them. I never saw the notary public whose signature and seal appear there. I signed the blank and never swore to the return. Brantman filled out the return and sent me a copy and filed the original and paid the tax. I don't know the Morgan referred to in testimony here. I heard O'Neill testify about

delivering merchandise to Morgan. I received none of these supplies from Morgan. I never received any supplies for my horse book or my gambling houses from the building at Milwaukee and Irving Park. I bought service from Mr. Flanagan,—information pertaining to horse races. I laid off bets with him which is the same as hedging in the market. If I had too much money on a horse I would call Mr. Flanagan and give him part of the bet. I would also give him my daily doubles. After the races were over, I or the man in charge of the office would call Flanagan and check results with him. My book manager would carry over to Flanagan's office the hard cards and the four or five sheets and whatever money I owed Flanagan. There were evenings when he would not go 1193 because I had no business with him that day. The service money would be sent over on the next trip. If a man bet \$50 to win on a horse and the horse was 10 to 1, I did not want to risk \$500 so I might lay off half of that bet with Mr. Flanagan. Flanagan might lay off part of the bet with someone else. I did not know what he did. Daily doubles are made before the first race is run. Flanagan took all of these bets. That was part of his service. They were phoned in to him before the first race. A daily double is picking the winner in the first and second races. A win might run into a lot of money. The daily double business was not profitable to me but Mr. Flanagan wanted the business. The one-way service furnished by Flanagan terminated in my horse book through an amplifier through which was announced all information pertaining to the horse race. This information was brought in to my place over this one-way telephone line and broadcast through the whole room. The two-way service was like any other phone. I would pick up my phone and he would answer or he could ring me. There was gambling at the Bon-Air in the summer of 1939 but I don't know of any gambling there at any other time. I visited gambling houses operated by these defendants. Percentages on a dice game vary according to the propositions one bets.

The Court: What is the percentage against a player on an American roulette wheel?

A. Five and five-nineteenths.

I have a dice lay-out here and I can explain the whole dice table if the Court would like to see it. I did not think this was a gambling case. The dice lay-out is a cloth with

numerals written on it telling the different plays that can be made. Straight dice have a little over one per cent 1194 in favor of the house. The whole lay-out, considering all the propositions, would give approximately two per cent in favor of the house.

The Court: Take an American roulette wheel and figure out the percentage.

The Witness: I could not do that right now but I know it is exactly five and five-nineteenths.

The Court: Figure it out for us.

The Witness: I could not do that right now. I probably could this afternoon just by refreshing my mind.

The Court: How many figures are on an American roulette wheel?

A. The numbers run from 1 to 35.

The Court: How many blanks?

A. There is one 0 and a 00.

The Court: And if the players win it runs from 1 to 35, is that it?

A. That is right.

The Court: If it stops on 0 or double 00?

A. If you bet 0 or 00 and if it stops there you win.

The Court: Suppose I am a player playing on 0 or 00 and it stops somewhere else?

A. You lose.

The Court: Suppose I bet on the red.

A. You would get paid if the red shows, that is, if the ball falls in the red compartment.

The Court: How many numbers are there?

A. They are equal,—red and black.

The Court: How many reds? How many blacks?

A. Eighteen black and eighteen red and two greens,—the 0 and 00.

The Court: Well, how many places are there?

1195 A. Thirty-six red and black and the 0 and 00.

The Court: Of the thirty-six half are black?

A. That is right.

The Court: If I bet on the red and the green shows, what happens?

A. You lose. If you bet on the black and the red shows, you lose.

The Court: How many chances do I have to win if I bet on the red?

A. You have just as many chances to win as you have to lose, with exception of the greens.

The Court: I have eighteen chances on the wheel that has thirty-six numbers?

A. That is right.

The Court: How many chances does the house have to win?

A. I have the green in my favor.

The Court: So the house would have twenty chances to my eighteen.

A. That is right, but the percentage on the wheel is not—

The Court: Well, how do you figure that percentage?

A. I will figure it later on. I will be glad to later on.

The Court: I would like to have the opinion of an expert.

A. That percentage is five and five-nineteenths.

The Court: I would like to know that.

A. That is the percentage.

The Court: Proceed.

Mr. Thompson: Well, can you tell us for the information of the Court and perhaps some of the jurors, what the percentage is in favor of the house in a dice game? What are the things in a dice game that makes the percentage in favor of the house?

The Witness: Well, the biggest percentage is on the Don't Pass. For example, if your Honor was betting the

Don't Pass, and two aces would show, I can collect on 1196 the two aces. In other words, I would take bets on either the Do or Don't Pass and if you are betting the Don't and the two aces show, you will not collect. It would be a stand-off.

Defendants' Exhibit S-36 contains a pair of my red dice with my monogram on them and also a pair of my white dice with my monogram. The monogram on these is "Horse Shoe 1939". No one has such a mark but me. It was the privilege of any player or any spectator to pick up a pair of dice from the table and walk out with them. As many as fifty or seventy-five pair of dice a day have been carried out.

Yesterday I made a few mistakes with respect to dates and I should like to correct them. After refreshing my recollection, I remember that Mr. Moody was running the horse book at the Dev-Lin in the daytime and I was there at night, as my Social Security records show. Defendants' Exhibits S-34 and S-35 refresh my recollection as to my operations at the Dev-Lin in the summer of 1937. My payroll payment for that period was half the usual amount.

These two receipts are for July and August, 1937, and they were with the rest of the receipts and papers which Mr. Plunkett showed me yesterday but I was not able to find them on the stand. Columns 1 and 2 on the chart are accurate representations of the opening and closing dates of the Horse Shoe and the Dev-Lin in 1936, 1937, 1938 and 1939. I read the transcript last night and found I was confused as to other dates. I was at the Lincoln Tavern in December, 1936, and June, 1937, as I stated on my direct examination. Those are the correct dates.

1197 Mr. Thompson: In addition to our other offers, we offer in evidence DEFENDANT'S EXHIBIT S-36, and columns 1 and 2 of the chart, which are the columns headed "Horse Shoe" and "Dev-Lin."

Mr. Plunkett: We have no objection to these exhibits.

The Court: No objection to any exhibit except the one I ruled on?

Mr. Plunkett: Yes.

The Court: They may be received.

Recross-Examination by Mr. Plunkett.

Defendants' Exhibit S-36 are dice of the Horse Shoe. I used to have another insignia on the deuce side. The horse shoe around the ace and the figure 1939 is a new design. I changed it because I liked it better. I used the mark on the deuce side for a long time. I have red and white dice because some people like one and some the other. At other places they use green. They cost about the same. I think the red is a little more expensive. Other houses may have changed their emblems in 1939. Changing the emblem made no difference in the way the dice rolled. I just changed them because I wanted to. The dice you show me have various marks,—one is "9730," one "D and D," one "Lincoln." Here is one with my old "Horse Shoe" mark. I used Horse Shoe dice at the Dev-Lin and the Lincoln Tavern. The dice you have shown me are all the same except the markings. I think I changed my marking before 1939. I think the dice you have are old dice. I closed up last September. I don't know who else closed then, but I know a lot of houses are open right now. I said yesterday that I swore to my income tax returns but I was mistaken.

They were made out as I explained this morning.
1198 The man in charge of my horse book bought the supplies. Some of them were bought at the Entry Service.

I have brought no records into court showing that I bought boys from the Entry Service. The bill I have put in evidence shows wall sheets. I did not buy the boys which show jockeys' names over at 4715 Irving Park. I had no number on the wire circuit. I was identified by my name or the name of my book manager. It was Gates' duty to pay for the service. I was never at the Service Bureau. I never went upstairs when I was visiting at the Casino. I think it was located there then. I don't think I ever met Flanagan at the Casino. I don't think I met him to do business with him. I saw him at different times at the theater or a football game or hockey game or prize fights and I had dinner with him a few times. Skinny Moss was the man who broadcast the race news. Eddie Gates was the man in charge of my horse book. I had no occasion to keep records between myself and Flanagan. Had I known I was going to be here I would have had a basket full of them. I brought into court such papers as I could find to defend myself. Papers I found which I did not think would be of interest to anyone I did not bring in. There was no sense in a bill showing that I had bought a mop. I don't think I have any bills now showing that I bought a mop. I threw them away but I can bring in the people who sold me mops. I gave you their names. I was confused when I said that Moody never operated at the Dev-Lin during the same period. He was running the horse book in the daytime which closed at 6 o'clock and I was running the side games at the Dev-Lin in the evening which opened at 8 o'clock. When Mr. Moody paid Social Security under the name Dev-Lin for the period he was there, that was the only time it was so paid. I could not file differently after he filed under the Dev-Lin than I had done before. I never took care of the details for 1199 all of the places. I have accommodated a lot of people. These other defendants were not rivals of mine.

Redirect Examination by Mr. Thompson.

During the period I had the Dev-Lin there were other people than Mr. Moody who occupied it part of the time. The Village of Lincolnwood used to run affairs there. Scotty Krier used to run Morton Grove Day there. When I was not using the place I would let other people have it. Mr. Moody did not have any interest or any connection with any gambling house operation I was running. I had no interest or connection with the book Moody was operating

in the afternoon. Mr. Hartigan's place was at 4701 North Kedzie, corner of Leland and Kedzie. I never operated at that number. I had no relation with Mr. Hartigan when he operated it. Thomas Barnes preceded Mr. Hartigan at that address. The place was vacant after Mr. Hartigan gave it up. Mr. Hartigan never operated at 4721 North Kedzie, first or second floor. He had no connection financially or otherwise with me in the operation of the business at 4721 North Kedzie. I succeeded Thomas Barnes there. When I moved into the second floor the first floor was occupied by a real estate office. I opened up the restaurant later.

Recross-Examination by Mr. Plunkett.

I don't remember the year when Mr. Hartigan ran the restaurant at 4701 North Kedzie. I don't think it was the first year I ran the Horse Shoe. Mr. Hartigan was in a different building than I was. There was no connection between the restaurant on the corner and the Horse Shoe 1200 gambling house. There could have been a phone extension from Hartigan's restaurant to the Horse Shoe gambling rooms but I would not know about it. It may be your contention that Hartigan and I were running the Horse Shoe for Bill Johnson but that is not so. I can remember dates as well as anyone but I cannot sit here for three days and remember them.

H. W. MEYER, being first duly sworn, testified as follows:

Direct Examination by Mr. Hess.

I am a contractor. My office is at 7212 Circle Avenue, Forest Park. I have known Andrew J. Creighton for two and a half years. We rented him space in our building. Defendant's Exhibit C-1 is the lease which bears Mr. Creighton's signature and mine. Mr. Creighton operated the Select Club there which was a horse book. He has been in possession since the date of the lease. We also erected a building for Mr. Creighton in Maywood. It was about three blocks south of Madison Street and one block east of First Avenue. It was the Proviso Club, a building about 50 by 100 feet, one story. Mr. Creighton contracted for the building and paid for it. This was in 1939. Mr. Creighton

has paid rent under his lease for the Select Club. He made payments at our office.

Mr. Hess: We offer in evidence Defendant's Exhibit C-1.

Cross-Examination by Mr. Hurley.

I live at 621 Balfour Avenue, Oak Park. Our company is Meyer & Stelzer Company. We leased the first floor at 7212 Circle Avenue, Forest Park, to Mr. Creighton and we occupied the second floor. Mr. Creighton occupied the 1201 premises from May or June, 1937, until about a year ago when he was closed up. Occasionally Fred Gitzen paid the rent. I know Murdock McKenzie. He was the manager of the Select Club. Sometimes he paid the rent. I have not seen him for three or four months. I don't know where he is now. The last I saw him was when he called at our office and asked whether there was any mail. Occasionally we received mail there for these men. When Creighton rented the space he told us he wanted to use it for a horse book. Mr. Creighton made some improvements before he moved in. Our firm did the work and he paid for it. It was in the neighborhood of \$1,500. The Proviso Club is at the corner of Orchard and some other street in Maywood. We erected a building there for Mr. Creighton. I did not look up to see who was the owner of the property. The building was erected early in 1939. There was still frost in the ground when we started. I think there were three 50-foot lots, approximately 125 feet deep. The building was cement block construction about 50 by 100, one story high.

The Court: DEFENDANT'S EXHIBIT C-1 may be received.

CHARLES A. PFINGSTEN, being first duly sworn, testified as follows:

Direct Examination by Mr. Hess.

I am in the real estate business. My office is at 11 South LaSalle Street. I know the defendant Andrew J. Creighton since the latter part of 1932. We were the managers and agents of the building at 6245 Cottage Grove Avenue and we leased the entire second floor of that building to Mr. Creighton late in 1932 or early in 1933. We continued

to manage the building until October 1, 1939. Mr. 1202 Creighton entered into possession of the premises and renewed the lease from year to year and paid us the rent very month. He gradually took on more space, adding a third floor and the rear part of the first floor of the building. The entrance to the first floor was through 6243 and the entrance to the building was 6245. It is a three-story and basement building with four stores on the ground floor. Up to the time I ceased managing the building Mr. Creighton was a tenant there all the time.

Cross-Examination by Mr. Hurley.

Our lease with Mr. Creighton was renewed every year. We do not have copies of the leases. When we gave up the management in October, 1939, we destroyed all the old leases. C. Wallace Johnson succeeded us as manager of the building. I turned over to him the current lease which expired in 1940. At the time I gave up the management of the building it was occupied by Mr. Creighton. When I was last in Mr. Creighton's rooms about September 15, 1939, there was equipment and furniture there. Mr. Creighton did not say anything to me about closing up. His space on the second floor was about 7,500 square feet. I do not remember whether I inquired of Mr. Creighton what business he proposed to conduct in the building. That was seven or eight years ago. We were glad to rent the space and I don't think I made any investigation of his business. The place had been standing idle for a long, long time. I might have had a general idea about the man to whom I leased the space but I do not recall that idea at this time. I made no investigation of Mr. Creighton.

I know he put up \$275 to secure his lease. I did not 1203 know that he had been at 4020 Ogden just before that.

Redirect Examination by Mr. Hess.

In the summer of 1939 I contacted Mr. Creighton once at 90 something Western Avenue to collect the rent for the Southland Club. He gave me \$550 and I gave him a receipt.

Recross Examination by Mr. Hurley.

Southwest Properties, Incorporated, own the Cottage Grove Avenue building. The president of the corporation is Percy Cowan who has an office at 39 South La Salle

Street. I believe Greenebaum Investment Company have some interest in the property. I know there was originally a bond issue on it.

The Court: What was the monthly rent when you first rented it?

A. Two hundred seventy-five dollars a month.

The Court: Did that increase?

A. It increased up to \$550 a month after he took additional space.

Mr. Hurley: How long did he pay you \$550 a month?

A. I think during the years 1936, 1937, 1938 and 1939. The rent was \$275 originally and increased after he took space on the third floor to \$350. Then space on the first floor brought it to \$400, and as he came to occupy most of the building it was \$550.

The Court: Was there any indemnity of any kind to the property owner against losses through gambling on the premises?

A. I don't think so.

The Court: What?

A. The only indemnity we had was landlord's or tenant's public liability in case anyone was hurt.

1204 The Court: If anyone got hurt with a load of coal or anything like that?

A. That is right.

The Court: You were not protected against gambling liability on the premises?

A. No, sir.

The Court: Could you get anything of that kind?

A. I don't think there is any insurance like that.

The Court: Did you have any indemnity of any kind to protect the owner?

A. Only personal injury.

The Court: Did Mr. Cowan know what these premises were being used for?

A. I assume he did.

The Court: Did you talk to him about it?

A. I did at the time I submitted the lease.

The Court: Did you tell him what they were going to do?

A. I told him what I thought.

The Court: What did you tell him?

A. I thought this was going to be used for a social club; that was my thought in the beginning.

The Court: What kind of a social club did you think they were going to use it for?

A. When they came in they said they were going to use it for a social and political club.

The Court: What kind of a social and political club?

A. I don't know.

Mr. Creighton was brought to me by a real estate broker. I don't remember his name. I destroyed the records of our corporation when it was dissolved because I had reduced my office force. We gave up our management business. I turned over the current lease to Mr. C. Wallace Johnson and I destroyed the rest of them because we had no more use for them.

RAYMOND E. PARKER, being first duly sworn, testified as follows:

Direct Examination by Mr. Hess.

I reside at 7719 Yates Avenue. I am a paper merchant. In 1936 I was on the road as a salesman. I have known Andrew J. Creighton for six or seven years. I executed a lease with him for certain property in 1934. This was 5317-23 Lake Park Avenue. I was operating a garage there for my father's estate. Mr. Creighton was there over five years. He operated a horse book there. He paid the rent to me as administrator from May 1, 1934, until the second lease terminated.

Cross-Examination by Mr. Hurley.

I have a copy of the second lease with Mr. Creighton. It covered a period of two years which would bring it down to April 30, 1941. I was appointed administrator March 16, 1933. I was operating under the supervision of the Probate Court. Mr. Creighton used part of the premises as a garage and the balance as a club. I did not ask him what kind of a club. When he came to talk to me he said he was looking for space for a club room. It was my understanding it was a recreation club. He came by himself. We agreed on \$375 a month rent. He paid \$375 a month from May 1, 1934, to April 30, 1939. Under the second lease the rent was reduced to \$200 a month. Business conditions warranted the reduction. Mr. Creighton asked that the rent be reduced. Shortly after I rented the premises I found out what sort of club was being operated there.

Mr. Hess: I wish to note an objection to this type of cross-examination. It is not cross-examination on what I presented on direct.

Mr. Hurley: I have a right to find out what this property is he is leasing to this man. He has not offered any lease. I want to see what the property is, what was there. This man says he was operating as an administrator.

The Court: Suppose you show what was operated there. Overruled.

The Witness: I saw a counter and some chairs in the place.

Q. How many chairs?

Mr. Hess: I object to this detailed examination as to the contents of the premises.

The Court: Is there any dispute about what it was?

Mr. Hess: No. If they want to know, we concede Mr. Creighton was operating a bookie in the premises.

Mr. Hurley: He said a club. We are not so clear what was there.

The Witness: I never saw any dice games there. I collected my rent from Mr. Creighton at the Club Southland. From about the middle of the summer up to November I worked for defendant Creighton at 53rd Street. During that period I was in the property every day. I was a sheet writer in the horse book. I never worked in the place at night. I worked for Creighton at the Club Southland for a period of about thirty days as a sheet writer. Mr. Creighton was the man I worked for. Bill Foley was in charge of the book. I also worked for Creighton at 9730 South Western Avenue, from June to September, 1939, as a sheet writer. The last rent I collected for the Lake Park Avenue place was in May, 1939,

when I ceased to have any interest in the premises. 1207 I am now working for Household Paper Products

Company. The Lake Park Avenue property was taken from us by foreclosure proceedings in May, 1939. A receiver was appointed.

JOHN BUTLER, being first duly sworn, testified as follows:

Direct Examination by Mr. Hess.

I reside at 5825 Campbell Avenue. I am an accountant. I have worked for Andred J. Creighton since 1936 keeping his payroll and Social Security records and performing some other duties. Mr. Creighton employed me and furnished me the names of the employees of the Southland Club, the 9730 Club, the Lake Park Club, the 406 Club, the Select Club, the Club Proviso, and the 11901 Club. I kept some of the records personally and the others were kept under my supervision and direction. There was a constant change in employees. I got my instructions to add or remove names from the payroll from Mr. Creighton. Mr. Creighton gave me the information with respect to the rate of pay and he turned over to me the employer's Social Security payments. We kept the Social Security collections in a separate account and at the end of the month or the quarter we compiled reports and drew checks to make our payments. As a general proposition the Club Southland, Club Western and Club 11901 did not operate at the same time. I worked at whichever one operated. I worked in the clearing house on the third floor in the Club Southland. This served Mr. Creighton's various horse books. I took and gave messages on betting, etc. This clearing house was a small office 1208 about 20 by 30 feet and contained a table on which were switchboards, drop lines and pick-up phones. Mr. Creighton gave all directions with respect to operation of this clearing house and his clubs. Bets were laid off from the clearing house. Mr. Creighton would call out and lay off bets with others and others would call in and lay off bets with Mr. Creighton.

Cross-Examination by Mr. Hurley.

There were about six or seven trunk lines and perhaps a half dozen drop lines or pick-up phones on the third floor. There were three or four others working up there. Bill Foley who operated Mr. Creighton's Lake Park Club would come in. Al Kalus, who also operated a book for Mr. Creighton, was up there part of the time. Others who operated books for Mr. Creighton were John Drumm

and Louis Lynch. The private lines ran from the clearing house on the third floor to the Southland Club on the second floor, to the Lake Park Club, the 406 Club and the other Creighton clubs. There was no line running to 2141 South Crawford or 4715 Irving Park while I was there. We got our broadcasting service from Nationwide and another place which I do not recall. I don't know Skinny Moss. I knew a Lester Moss. He was a wheel dealer. The books for the Club Southland, the 9730 Club and the 11901 Club are in my handwriting. Books for the other clubs were kept by different persons. Employees were paid daily in currency. Various employees got different pay, from \$2 a day for the porters to \$15 for the floor men. I testified before the Grand Jury one day. I don't remember whether it was January 30, 1940. At that time I did not tell about doing any of this telephone work. I don't believe anyone asked me about it. I 1209 don't recall answering "No" to the question, "Aside from preparing those Social Security returns have you done anything else for him?" Nor do I recall saying that the only work I did for Mr. Creighton was on the Social Security records. It is possible that I said I never assisted around any of the gambling houses. I never worked at any of the games in the gambling houses. I said before the Grand Jury that anyone who happened to be near a telephone answered it. I don't recall anything being said before the Grand Jury about this third floor telephone service that I have testified about.

Redirect Examination by Mr. Hess.

I think Mr. Creighton had employed in his clubs in round figures about 200 employees on the average.

ANDREW J. CREIGHTON, being first duly sworn, testified as follows:

Direct Examination by Mr. Hess.

I reside at 4921 West Jackson Boulevard. I am one of the defendants. I am a book-maker and gambler and have been in the business for more than twenty years. I have operated the Club Southland since 1933. The other clubs mentioned were opened after that date. Prior to the open-

ing of the Club Southland I had operated at 215 South Halsted Street for about four years and about that time I had another place at 1800 West Madison Street. I closed these clubs and about a year later I opened the Southland. I made a lease with Charles Pfingsten in the latter part of 1932 and then opened a horse book on the second floor. Later I acquired space on the third floor and then in the rear of some stores on the first floor. When I was 1210 chased out of the second floor I used to operate in these spots. In the Club Southland on the second floor I had various gambling games,—roulette, blackjack, poker. I had a wire office on the third floor which was established about two and a half years ago. I cleared bets through there for my books and took their lay-offs. It was called a clearing house. I used the balance of the third floor for storage. I think I opened the Lake Park Club in 1934. It was a horse book only. I operated the Select Club in Forest Park. I rented space from Meyer & Stelzer and prior to that I operated next door over a saloon, beginning some time in 1936. This was a horse book only. I operated the Club Proviso in Maywood in my own property. It was a horse book. When I was closed in Forest Park I moved there. It only operated a few months in 1939. I moved the Club Southland out to Vincennes and 119th a couple of times when the Club Southland was closed. I had a little book behind a saloon at 406 East 63rd Street. I operated the Club Western at 97th and Western. There I had various gambling games,—dice, roulette, poker and horses. I rented the premises from Mr. Goldstein. No other person was financially interested with me in the operation of any of my places. I was liable for expenses of all these places. I hired and discharged the help, fixed their pay and duties. I was never under any obligation to divide profits with any person whomsoever and I did not divide the profits from any of these gambling parlors nor did I ever promise to do so. I cashed checks at the Mid-City National Bank. Some of these checks were from my business and some were for other business men in the neighborhood. They did not represent profits from my business. I cashed checks at the Washington Park Currency Exchange. These were checks which I had cashed for patrons. They might or might not represent losses. They did not represent profits from my business. I cashed some checks at the Lawrence

Avenue Currency Exchange. Jimmie Hartigan asked me whether I could send him a little business. I had no interest in this exchange and I was charged a service fee for such checks as I cashed. These checks did not necessarily represent losses by patrons nor did they represent profits from my business. I recall Blake whose checks are in evidence. He is in the monument business and I know him very well. I frequently cashed checks for him. He gambled at the Club Southland, Club Western, and at 119th and Vincennes over a period of four or five years. Mr. Blake's checks received in evidence do not represent his losses. He made large winnings. I remember one time he won \$3,000 and I sent a messenger home with him. He was paid in \$100 bills. We used \$100 bills in making cash-outs above \$100. The patrons want large bills. I remember cashing some checks for Bissell at Club Southland. I don't know whether Government's Exhibits X-202 and X-207 represent gambling losses of Mr. Bissell. Martin Jerome O'Leary worked for me as a shill and later as a dealer at the Club Southland and the Club Western. I did not maintain a school for shills but I did allow some of my experienced help to teach some of the new help. They would come down maybe an hour early and I would have a check dealer or stick man instruct them. This so-called school was operated only when some of the shills would ask for it. It was not open to the public. It was only for my employees. I know a McGlynn who used to work for me. He worked around at several of my places. I laid him off. When he wanted his job back I did not say to him, "What can I do about it. I am only working here," or anything to that effect. I merely told him that so many of my small books were closed that I could not give him employment. I owned all of the places I operated. 1212 The Autovent Company for which Mr. Schafer worked did several jobs for me installing fans or ventilating systems. I made the contracts and paid for the work and no one gave me any orders about it. I saw John Hayes on the witness stand but I never saw him before. I heard him say that he saw me working at 4020 Ogden in 1931 or 1932 but I never worked there. At that time I was in business on Halsted Street. In those days I visited 4020 Ogden very frequently playing faro bank in the evenings as a patron. I never worked at the 4020 Club in any capacity and I never had any interest in the

club. I changed my locations frequently. When the Southland closed I used to open at 119th and Vincennes and I would employ bus service to take my patrons out there. Mr. Thibert furnished service for three or four months. He had large busses and would make three or four trips in the daytime and three or four at night. Each trip averaged about \$5. Mr. Thibert solicited me for this business and told me that Mr. Sommers had authorized him to use his name. He said he had done some work for Mr. Sommers or something to that effect. I paid for this bus service. I do not recall Earl G. Smith. I would have ten or fifteen shills working for me at once. I knew my help pretty well but sometimes I did not know their names. I cannot place Earl Smith. I believe it was between June and August, 1939, that I cashed checks at the Washington Park Currency Exchange. I closed the Club Western about September. I came back to the Club Southland and operated horses there for fifteen or twenty days in October, 1939. I was not operating any of my clubs in November and December. I might have cashed \$15,000 or \$20,000 in checks at Washington Park over all the period I did business with them. I sometimes cashed checks for them and I would send persons to the exchange with my okay on their checks. When I cashed checks for the currency exchange they would later pick them up and return my cash. I had a loud speaker service in all my horse books. I got the service from two sources and had both services in some of my places. I had service from John Flanagan and also from Nationwide. Where I had both services I could throw a switch and take either service. The Flanagan service gave a better line on the horses. He gave us various kinds of information tipping us off to police activities and also on horses that were carrying a lot of money. Flanagan also took our daily doubles and we had a lay-off privilege with Flanagan which we could take advantage of if we got heavy on a horse. I usually handled my lay-offs with my different houses but sometimes we laid off with Flanagan. It is not possible to operate a horse book without service like that which I got from Nationwide or Flanagan. I had two wires with the Flanagan service. The one-way terminated in a loud speaker in my rooms and carried information on the horse races. The two-way wire was one we used to phone in the daily doubles, lay-off or hedging of different bets, and so

on. All I know about the Flanagan service is that I bought it and paid for it. I know nothing about how Flanagan operated his business or where he got his service. In operating my seven places I bought all of my supplies, including scratch sheets, envelopes, pads, pencils, boys, etc., from different supply houses. I never knew a man named Morgan who has been mentioned here and I never bought any supplies from him. I never bought any supplies from any person at a building at Milwaukee and Cicero. I know nothing about the supplies sold there by Mr. O'Neill and I never got any of those supplies. I fixed the wages, the hours and duties of my employees. I had floor men who worked under me at my various places. None of the defendants on trial were ever in charge of any 1214 of my places. They had nothing to do with the operation of my places. On an average I would have about seventy-five employees in the afternoon and seventy-five at night at the Club Southland; at Lake Park maybe ten or twelve. When I operated at 97th and Western or at 119th and Vincennes I had about the same as I had at the Southland but they did not work as steadily. These three clubs are the only ones where I had the general gambling games. The rest were all horse books with few employees. The chart marked defendants' Exhibit C-3 shows the periods when the various clubs operated by me were open. I have known William R. Johnson for perhaps twenty-five years. He never had any proprietary interest in any of the gambling houses I operated. I never operated any gambling house for his benefit and I never paid him any of my profits, nor do I owe him any of these profits. Mr. Johnson came frequently to the Club Southland but he never visited any of my other places to my knowledge. I think the last time he was at the Club Southland was in 1937. Sometimes I used to call him to take over a dice table when the game would get too big for me to handle. I do not recall his coming to my place when I did not call him. When he took over a table I would check it to him and charge him for the money and the checks on the table and from then on the table belonged to him and I had nothing to do with it. If there were any profits they were his and if there were losses he stood them. When Mr. Johnson left he would check the table back to me. If it was short he would make up the shortage to me. I would never know what the result of his playing had been. During all the years 1936, 1937,

1938 and 1939 I knew nothing about William R. Johnson's income tax returns. I did not know whether he filed 1215 returns. I had no conversation with him on the subject. I knew nothing about his personal financial affairs. I never knowingly aided him in any way in an attempt to evade payment of taxes. I do not know whether he ever attempted to evade taxes. I never had any conversation with him about an alleged attempt to evade taxes. I never worked for Mr. Johnson and I never had any conversation with him with respect to the manner in which I should operate my gambling houses. He never gave me any directions about the operation of my clubs and never asked me anything about whether I was operating at a profit. I never delivered any money to William Goldstein for William R. Johnson in connection with the purchase of the Western Avenue property. I spent about \$6,000 putting that property into shape for my gambling club. In August, 1935, I testified before the Grand Jury in the Skidmore income tax investigation and I was interrogated with respect to my ownership of gambling houses. I also was interrogated about cashing checks.

Q. When was it you appeared before the Grand Jury in 1940?

A. I believe it was in February.

Mr. Hurley: I object to that. I move to strike the answer.

The Court: Sustained. Strike it out.

Q. Did you have a conversation with anyone connected with the Government with respect to the ownership of these gambling parlors some time in the month of February, 1940?

A. Yes.

Mr. Hurley: I object to that.

The Court: What relevancy do you contend that has?

Mr. Hess: Well, I am asking questions preliminary to making the same offer of the indictment that you overruled before, but I can't just come out and ask him whether he was indicted.

The Court: I am going to sustain it. Don't ask 1216 questions that are irrelevant.

Mr. Hess: All right, but I am leading up to it.

The Court: Just make your offer. You know how I am going to rule, so just make your offer.

Q. Mr. Creighton, I show you defendants' Exhibit C-2

for identification and ask you whether you ever saw this document before.

A. Yes.

Q. When was the first time you saw the document?

Mr. Hurley: I object to this, if the Court please.

The Court: Sustained.

Mr. Hess: I asked him when he saw it.

The Court: What is the relevancy?

Mr. Hess: I have not offered it yet.

The Court: If it is not relevant, it does not make a particle of difference when he saw it. Objection sustained.

Mr. Hess: Where did you secure the document?

Mr. Hurley: I object.

The Court: Sustained. If you gentlemen would make some objections we would proceed in an orderly manner.

Mr. Hess: I want to make an offer of proof. Your Honor, if you want to exclude the jury.

The Court: Step into the jury room, ladies and gentlemen.

(The following proceedings were held out of the presence of the jury.)

Mr. Hess: The offer which I wish to make is to the effect that the witness had appeared before the Grand Jury and gave testimony on the subject of the ownership of these gambling houses and that he was at that time informed that unless he testified that they were places of William R. Johnson he would be indicted in connection with the income tax matters, and that subsequent thereto he was indicted.

1217 The Court: Who, do you propose to show, told him he would be indicted? Proceed right now to ask the questions in the record. Make a note in your book where this is, Mr. Reporter, so that you can refer to it.

The Witness: I appeared before the Grand Jury in the early part of 1940 with respect to income tax investigations and was questioned about the ownership of gambling places. I had a talk with Riley Campbell about my testimony. It was in his office just about the time I went before the Grand Jury. I believe it was February, 1940. According to the punches on my subpoena card I think it was February 5. Jimmie Hartigan and Jack Sommers were also present. Riley Campbell told me that if I did not tell him that Bill Johnson owned these places I operated that he would indict

me on my income tax for cashing checks and exchanging currency. I told him that I owned any place that I operated. After this conversation I was indicted.

Cross-Examination by E. Riley Campbell.

This conversation was about ten o'clock in the morning. If it was not in February it was in January this year. I can only fix the date by the punches in my card. I was here in the building on January 3 and February 5 and February 13. It was on one of those occasions. Mr. Sommers and Mr. Hartigan and you were also present. Mr. Plunkett was in your office earlier. I was questioned about different things while he was there. When Mr. Plunkett went out just the four of us were left and then this conversation with you which I have related occurred. It lasted three or four minutes. You told me in front of Hartigan and Sommers, "All of you fellows have been coming down here and telling me a lot of lies. If you don't tell me that Johnson owns 1218 those places that you are operating, I am going to indict you for the cashing of checks and exchanging of currency." That is part of what you said. I don't remember the words exactly. I went before the Grand Jury and testified. Nothing was said before the Grand Jury about indicting me if I did not testify to a certain state of facts. I don't know what appears in the Grand Jury record. I did not know in 1939 that Johnson had any interest in the Western Avenue property. I told the Grand Jury I knew nothing about it. I remember talking with you alone in your office in January or February, 1940. I do not remember Mr. Stains being present when you questioned me. You have talked to me in the presence of Mr. Miller and Mr. Plunkett on several occasions. There was a stenographer out in front of your office. I think Mr. Stains was out there one morning when I came down there. I asked for you and he went in and told you I was there and he brought me into your room and then left. It might have been in February, 1940, when I brought my Social Security records before the Grand Jury. They were brought before the Grand Jury after the threat was made by you. I do not remember all of the conversation. The threat stands out in my mind.

The Court: On the basis of the testimony of this witness since the jury has retired, you offer what?

Mr. Hess: I offer EXHIBIT C-2, a copy of the indictment.

The Court: What indictment?

Mr. Hess: The indictment returned against Mr. Creighton charging him with evading or attempting to evade a lot of taxes on income from gambling operations.

The Court: Now what is your theory?

Mr. Hess: This has a tendency to show that the Government has charged that this man owes income tax because he owned and operated these places, a point which is in issue in the case now on trial.

The Court: Your point is that the testimony of the witness on the stand indicates that Mr. Riley Campbell told him that if he did not testify that these various gambling houses belonged to Mr. Johnson, the Grand Jury would indict him as the owner thereof for failure to pay income tax arising therefrom. Is that it?

Mr. Hess: That is what his testimony was.

The Court: And that subsequently he was indicted.

Mr. Hess: For that.

The Court: Because he was the owner, it was claimed, of the gambling houses, but he did not pay the tax on the income that came to him as owner. Is that it?

Mr. Hess: That is it.

The Court: Even granting everything the witness said was true, I can't follow you in that argument. I don't see any materiality. The objection is sustained.

Mr. Hess: I offer in evidence EXHIBIT C-3.

(In the presence of the jury):

Cross-Examination by Mr. Hurley.

The telephones I had on the third floor at 6245 Cottage Grove were contracted for in my name. There might have been eight or nine trunk lines. I have no definite recollection of the number. They were not all put in at one time. I think there were four or five installed in the fall of 1937 or the spring of 1938. The others were put in later. The wire from 4715 Irving Park Boulevard came to the second floor at 6245 Cottage Grove, the horse book. Sheet writers and cashiers worked in the horse book. The manager or the service man had access to this wire 1220 from Irving Park. Anyone of the sheet writers might take the service. I don't remember who at any par-

ticular time. One might take it for three or four weeks and then somebody else. I know John Drumm took service for me one time. Either I or Fred Gitzen signed contracts for my telephone service. Al Kalus and John Butler worked in the office upstairs. Also Bill Foley. Telephone service was billed in my name. The telephone equipment was taken out early in 1940 I think. I was still paying rent on the third floor when the equipment was taken out.

Further Direct Examination by Mr. Hess.

Defendants' Exhibits C-4, C-5 and C-6 bear my signature. They are leases for the 63rd Street property. Defendants' Exhibits C-7 (a, b, etc.) came to me through the mail. Subsequent to receiving them I had a conversation with Mr. Goldstein in reference to that contract for electric lighting at 9730 Western Avenue.

Mr. Hess: Subject to cross-examination we add these to our offer of exhibits.

Further Cross-Examination by Mr. Hurley.

I had a pick-up phone service directly between the Club Southland and Flanagan's place. I believe there was an extension service from that phone from the second floor to the third floor room. My own men put in that extension. I opened the third floor office some time in 1937. I had broadcasting service in my other books. I imagine I had direct service from Flanagan to all these places. I 1221 don't know the details of the wires from one place to another. I had nothing to do with installing the service from Flanagan's place. He handled that. The cost of installation did not concern us. I paid so much for the service. I think I first took service from General News back in 1934. I continued with them and the successor, Nationwide, off and on while I was in business. I think I have had the Flanagan service at 6245 Cottage Grove since I opened the place. I had both services I would say the last three or four years. I don't know where Flanagan got his service. He might have been getting it from General News and later from Nationwide. All I know is I was getting both services. I have known Flanagan about fifteen years. I first met him around the Hawthorne race track when he was working there. I was operating a book

there. After that Flanagan used to make horse prices. He operated around Ogden Avenue. I did not see him very often. In the last few years I knew he operated a horse room and also a gambling house at 4020 Ogden. I have been over there quite often. This was in the neighborhood of the first broadcasting spot at 2135 Crawford. He moved later to 4715 Irving Park. I used to go to 4020 when I was closed and just gambling any place where I could find action. I don't believe I ever saw Flanagan at the Southland. I have known Hartigan thirty-five years. We used to go to school together. I don't know where Hartigan was working around 1930. He never worked for me at any time. I may have been absent from my places for a protracted period of time. One time when I was running just horses and blackjack I was out of the city for fifteen or twenty days in 1934 or 1935. Hartigan did not have charge of my places at that time. Whoever was managing the book continued in charge. I am pretty certain Al Kalus was in charge at the Southland. I have known Wait for

four or five years. I do not recall just where I met 1222 him. I know he operated at the Villa Moderne but

I was never there. I have seen Mr. Wait often in 1938 or 1939 at the Bon-Air. He seemed to be interested out there. He would be around the club and I had several conversations with him but he did not tell me what he was doing and I did not ask him. I never saw him operating the gambling room there. I don't think I was ever in it. I was out there a few times in 1938 and 1939 but more often in 1940. I heard the gambling room was operated in 1939. I used to gamble at Flanagan's but that was very early in the 30's when I was not operating. I used to see Hartigan at the Bon-Air in 1939 but I don't know what he was doing around there. I saw him there oftener in 1940. Mr. Johnson owned the place or was interested in it, I don't know which. I never sent any of my employees out there to work. Often I was not able to give them steady employment and they would get work at this country club. These wheel rollers work all over the country and they try to get the best job they can. I never sent anyone to the Bon-Air to see anybody. Some of my men asked if it would be all right for them to get employment at the Bon-Air and that is all I know about it. The fact that they were not bothering me trying to get me to place them a day or two a week was how I knew they were working out there. I never gave

any of them a recommendation but they might say they had worked for me. I do not recall anyone calling me from the Bon-Air to inquire about any of these men. I have known of Kelly for quite a number of years. He went to school with a younger brother of mine. I did not know much about him until I heard he had a gambling house on the North Side. I would say this was three or four years ago. I don't recall ever having seen him around gambling houses before. I have never been in the D. & D.

Club. I may have seen Kelly while he was operating 1223 this club but it would be only occasionally in a restaurant or such a place. I may have sold Kelly some playing cards. I used to buy them in quantities and resell them as an accommodation. I may have talked to Kelly over the phone about it. I never saw Kelly at 4020 Ogden Avenue at any time. I think I may have sold Jack Sommers playing cards at the Horse Shoe. I have never been in the Horse Shoe gambling room. I seldom visit other gambling rooms. I have known Sommers for quite a few years. I have seen him around different places where we gambled. It may have been twelve or fourteen years since I first met him. I don't recall just where I saw him. I saw Sommers very often in 1940. I met him a few times in 1938 and 1939 at the Bon-Air. I don't think I was ever at the Dev-Lin when he operated it nor was I at the Lincoln Tavern. I have been at the Harlem Stables on a few occasions back in 1936 and 1937. Hartigan was running the place. I only know where Kelly lives by hearsay. I have never been in his house. I may have called him on the phone at Oak Park. I don't know the defendant Mackay very well. I know I met him in 1940 but I would not say whether before. I have never been in the Casino and he has never been in any of my places. The first time I met defendant Brown was when I cashed checks at the Lawrence Avenue Currency Exchange. I believe I cashed a few in 1939. I think I introduced myself. Hartigan asked me to put some business there. Prior to that I had been cashing checks at the Mid-City Bank and also at the Washington Park Currency Exchange across the street from my place. The Lawrence Avenue Currency Exchange was quite a ways from my place,—seven or eight miles. I cashed a few checks at Lawrence Avenue. I don't just remember when. After Hartigan asked me to take some business there I took quite a few

checks up there. I did business at the Mid-City 1224 Bank. It was three or four miles from my place.

The I. C. Bank was two or three miles. Either Fred Gitzen or I would take the checks up to Lawrence Avenue whenever we had checks to cash. It was not every day. I do not remember anybody else carrying checks up there. I have known defendant Johnson for over twenty-five years. We both lived in the same neighborhood in Austin back in 1914. I am still living out there but Johnson moved up north. We have been good friends and have been around together quite a little. We met very often at gambling houses. I used to see him at Al Kennedy's place at Hoyne and Madison and at Tony Ragio's at Wood and Madison, at Gatewood's at Lincoln and Lake. I don't know just how many times Mr. Johnson has been out to the Southland but quite a few times. He was out there two or three times in 1936 when he would take over a dice table. He was out there ten or twelve times in 1937, maybe more, maybe less. It was an occasion when he came into my place. I don't recall his being there in 1938. I was operating then but to my best recollection he was not there. The same is true of 1939. I don't recollect his ever being at 9730 Western. I don't recall the first time Johnson ever took over a table in my place. I think it was prior to 1936. Probably in 1934. Often small players would start out betting a few dollars and work up to big bets. I had a limit of \$100 on the crap table. That means \$100 on any roll, Do Pass, Don't Pass or the Come Low. Many players start out low and work up to a big game. When Johnson would take the table over they would go over my limit. The game would be in progress when I would call Johnson. Whenever players I knew had previously played with Johnson would come in my place I would call him. If Johnson was tied up in a big game at the Horse Shoe then there could be no big game at my place that night. The players would sometimes be satisfied to continue playing and stay within my limit and sometimes they would leave. I did not tell them that I could not 1225 get hold of Johnson. I told them nothing. If they wanted to play, all right, if they didn't, all right. Nobody would ask me to arrange for a game with Johnson. It would be my idea. I would know when to call Johnson because the play would get too high for me or I would know the players that were playing. Sometimes when a

lot of players were betting less than \$100 it would be a larger gamble than I would care to handle. When the playing gets high it attracts attention and I find out about it. I am around at the tables. When Johnson would come I would check the table to him, that is, even up the table and charge him with the money and checks and then Johnson would take over the table. I would leave on the table \$1,500 or \$2,000 in 5's and \$1,000 in checks. Johnson would put his own money on the table in larger denominations. I have seen him play one of these big games many times. He would start with packages of bills. I have seen him put down \$4,000 in 20's and also \$50 or \$100 bills. I did not count the number. He would take these bills out of his pocket. I have seen him take money from his coat pocket and his pants pocket. He would put a pile of bills on the table or hand them to the box man. Johnson would sit down at the end of the table and watch the play. I don't remember ever seeing Johnson deal at 63rd Street. Johnson does not handle the dice. He books the game. After the game was over he would take the money out of the box and check it over and check the table back to me. He put his money in his pocket and walked out. I have never seen him with a bodyguard. He was always alone. There would be four men working on the table, a stick man and three dealers. Three worked at a time and one man off. That does not include the box man. I have seen Joe McLain working as a box man when Johnson took over the table. Also Alex Feinberg working as a dealer or a 1226 box man. I am trying to think of others in 1937. I think of a man named Smith but can't think of his first name. I did not try to think of these men before I got on the stand. I last saw Feinberg and Smith in 1939. I saw McLain in 1940 within the last two weeks. I can't recall just when these several games took place. I think there were about three in 1936. The last time he played in my place was in 1937 but I can't give you the dates. I don't remember how many were in the last game he played when I was open at 63rd Street in 1937. The whole table played against him. You can get as many as seventeen players around a table. My best recollection is that the table was crowded when he last played at my place. I had no interest whatever in Johnson's games. When the game was over he would take his money and leave. I got no split on his games. I furnished the employees and the

equipment and Johnson banked the game. I cannot name any of the people who played with Johnson. I know the names of many of my customers,—people I cashed checks for,—but I can't recall any that played on the particular nights with Johnson. I found out the names of patrons who cashed checks with me. Sometimes I cashed a check for a man who was recommended to me by someone else. To the best of my ability I took precautions to find out that the check was good. Some who were playing against Johnson might have cashed checks. Sometimes he would take checks and then cash them with me after the game was over. I don't remember his ever endorsing a check to me. I think I signed defendants' Exhibit C-5 in 1937. This lease says the premises were to be occupied as a social and political club. The same for C-4. I signed C-6 in 1939 and it says the space is to be occupied as a social and political club. 6241 Cottage Grove is a store in the same building which I have had since 1937. I made an 1227 entrance through that store to the rear on the first floor. I operated down there with horses as a sneak spot. One of my employees hooked up telephone service down there. Mr. Gitzen is a sort of handy man who took up telephone extensions many times. I had extensions from the second floor to the third floor. He may have brought up the extension which connected with 4715 Irving Park. Gitzen was employed by me and not the telephone company. I rented 9730 Western Avenue some time in 1937 and operated only a few hours at that time. The next I operated there was in 1939 from May to September. I was not then operating at 119th and Vincennes. I found 9730 by just looking around for a location. I did not like the 119th Street location. When I found 9730 it was nearly completed but they were still working on it. I saw some people employed there. I inquired whether the place was for rent and they referred me to Mr. Goldstein who was on the premises. I talked with him about renting the place and he said he would see if it was available. That is about all the conversation that day. I was stopping at other places looking for a location. I stopped at a roadhouse around 92nd and Western and at another on 95th Street four or five blocks west of Western. I made no written lease on the property at 9730 Western. I paid \$500 a month when I used it. When I did not use it I did not pay rent. I did not know Goldstein until I met

him there that day. I did not get receipts for my rent. I improved the property after I moved into it. It was a brick building and I paneled the walls. I put in a bar, some counters and electric light fixtures. I paid for all of it myself but do not remember the amount. The work was done over a period of time and some of my employees worked out there, two or three of them. I have no idea how much it cost me. I paid the cost from day to day out of my business. I was told whatever changes I wanted to make in the building would be at my own expense. I 1228 just went ahead and fixed it up to suit myself without talking to anyone about it. I think the building I built in Maywood was at 1217 Orchard Street. The building was on two lots which I own. I bought them from a fellow named Fox when I put up the building. I think I paid \$1,300. I took title in my own name. The building was about 48 by 90, was cement block construction, cost about \$11,000, and was built by Meyer & Stelzer. I operated a horse book there. It cost about \$13,000 to open. It was my own money which I had in a safety deposit box. I have a box at the Continental Illinois. I might have taken part of the money from that box and part of it from my safe at 63rd Street. I may have taken some of it from my box at the City National. I made the payments at different times and may have taken all of the money from my safe at 63rd Street. I think I have the deed to the property at home. I think Nadherny drew the plans for the building. He is the same architect who built 9730 Western. I don't know whether he built the Bon-Air. I operated on Orchard Street for a while in 1939 and then got closed. I went back to Forest Park and operated until September and got closed there. The Orchard Street place was known as Club Proviso. I kept no records of my gambling business, only running figures as to the amount of money. I had detailed Social Security records. I had no records from the different books except what they would send me from those places. When someone made a bet at the Southland book it would be recorded on a betting pad by a sheet writer. He used a carbon paper and made a duplicate sheet. The sheet writer would give the carbon to the manager of the book and the original to the cashier. On the winning horses the cashier would make extensions on his sheet when he paid off. There were no other records kept of those transactions in the book. At the end of the day the cashier turned over his

1229 sheets to the manager and the manager would total the ins and outs. I could tell from them how much was won or lost during the day's betting on horses. After the manager finished with the sheets he put them in the safe. They might be kept there for seven or eight or ten days and then they were destroyed. The duplicates were probably destroyed before. The duplicates are a check for the manager of extensions on the original. The cashier cannot mark a bet down for himself because it would not be on the duplicate. That is all that happened with respect to these sheets. I have described the whole operation. I did not send the original or the duplicate up to 4715 Irving Park to be audited. The manager of the book sent over sheets showing the daily doubles and the lay-offs. We did not send along the other sheets. We had no audit made of these sheets. Those sheets would constitute a record of what was won or lost in the book every day. If I had kept those sheets together with the payroll it would have shown what the book made. There are no records kept of the side games. I just kept running figures from day to day. If I made \$80 I had \$80 more than I had the day before. In a dice game the table starts with a certain amount of money which is got from me. That does not go through the cashier's hands. I get it from the safe. The money changer or cashier, as you call him, just makes cash-outs. He pays money to the winners. A floor man or box man writes the ticket for a particular cash-out and a runner takes it to the cashier and brings back the money.

Q. What record is made at the time of that transaction you have described?

Mr. Hess: I object to this line of cross-examination. It is altogether immaterial to the issues.

Mr. Hurley: I would like to find out what kind of record this man kept.

1230 The Court: Objection overruled.

(The following took place outside the presence of the jury.)

Mr. Thompson: I don't think that map ought to be up all the time. It has been up there five weeks. When ours was up for two hours they complained.

Mr. Hurley: This is different.

Mr. Thompson: You have no right to place one before the jury for five weeks. There is nothing fair about it. It is not up there for the purpose of being used.

The Court: Do you contemplate making any further use of it?

Mr. Hurley: We might. We used it this morning.

Mr. Thompson: You used it about one minute for one question.

The Court: Take it down until you are ready to use it.

Cross-Examination by Mr. Hurley.

(Continued in presence of jury.)

When the cashier paid out money he had the ticket that had been issued to him. He probably put it on a spindle. At the end of the day these tickets would be delivered to me and I would check them against the money. The cashier either had the money or the tickets. The amount of money the cashier had depended upon how long I was open,—sometimes \$4,000 or \$5,000. He would balance his cash against his tickets. That was the only record kept of the money made on the side games. After I checked the money against the tickets I destroyed the tickets. The sheets that were sent in from my other horse books were destroyed after I took off them whatever was won or lost. Sometimes I kept them for a few days. Some of the sheets were delivered to me at the end of the day at the

Southland and the Forest Park sheets might be delivered at my home. I would take off these sheets the win or lose figures. They were just ordinary sheets on which horse bets were written. I got only the originals. I had no use for the duplicates. Duplicate sheets were kept at the other horse books as well as the Southland but I got only a top sheet from the other places. The manager would send it in. The individual sheets were not sent to me. They were left at the place and occasionally I would look at them. I relied upon the managers to give me the correct figures. I trusted them. Maybe once a week I would check over the sheets from a previous day. No one else except Johnson ever took over a game in my place. I know Albert Couch. I believe he was employed by me at one time. I think he worked at the Club Proviso for a while. I think he was called Curley. I had a dealer named Jean Barnes. He was no relation to Tom Barnes that I know of. Lester Moss was a wheel dealer. He is not Skinny Moss and I don't think they are related. I know Skinny Moss but do not know his first name. I know

Tom Hartigan. He worked for me as a cashier or sheet writer at the 97th Street book. He is a brother of James Hartigan. I don't know whether he managed the book on School Street. I don't believe Maurice Downey ever worked for me. There are several brothers. I know Mook Downey is some relation to Bernice. I met her at the Lawrence Avenue Currency Exchange. My signature appears on Government's Exhibits X-65 to 70. Those checks were cashed by me through the Mid-City National Bank. Government's Exhibits X-71 to 118 except 107 are checks cashed at the Central National Bank through the Lawrence Avenue Currency Exchange. My endorsement is not on them. I was cashing checks at the Lawrence Avenue Currency Exchange during the period of their dates. I know nothing of that number "2" stamped on there in a 1232 circle. There is no reason why I did not endorse these checks. I was not required to by the Lawrence Avenue Currency Exchange. I had to endorse checks at the Mid-City because I had an account there. Checks I cashed there were not put through the account but I had to have an account there to get checks cashed. I used the bank account for Social Security and also for horse bets that were made over the telephone. At times I took bets from a number of book makers that were paid by checks. Government's Exhibits X-25 to 48 bear my endorsement. These checks were cashed at the Mid-City. I never cashed any checks at Albany Park Exchange. Government's Exhibit X-64 bears my endorsement. I don't know what the "M.D." is. I never gave any checks to Maurice Downey to cash for me. I remember one time I gave Mr. Hartigan some checks I had in my pocket and asked him to cash them for me. Government's Exhibit X-137 may be one of those checks. "Andy C." is written in pencil up in the corner. He may have put it there. The check isn't endorsed. It was cashed at Albany Park. Hartigan apparently cashed it for me. The same is true of X-138. The Social Security books contain names of all persons who worked at the Southland and my other places. In the small places the managers kept their own records, collected the Social Security tax, put it in an envelope and sent it to me together with a list of the employees. Once a month Mr. Butler would check the books. The chart was made from figures I gave from these books. E. C. Hirsch was a patron of the Southland. He played the wheel. When a person won money at one of my places he

could get a credit slip if he wanted to. That credit slip was not good at the D. & D., the Horse Shoe or at any other place. I never accepted payments from other places for losses sustained at my places.

1233 Mr. Hess: We object to this as improper cross-examination. It has nothing to do with the direct examination.

Mr. Hurley: I understand this witness is not on for any limited purpose.

The Court: He is on for cross-examination. Being a defendant, that cross-examination is quite broad. Objection overruled.

The Witness: Mr. Brantman made out my income tax return for 1933. I met him at his office. No one else was with me. I met him by appointment. I believe I called him up. I wanted an accountant to check a brokerage account and Mr. Brantman was recommended to me by someone, I don't recall who. Government's Exhibit R-58 is my return for 1933 prepared by Mr. Brantman.

Q. You gave Brantman the figures to prepare that return?

Mr. Thompson: As to defendant Johnson and other defendants I object to this examination on the ground that it is hearsay and also that it is immaterial to any issue in this case. These men had no connection with making these returns and there is no showing they had any knowledge of them.

The Court: Overruled.

The Witness: Whatever figures Mr. Brantman had I gave to him. I also gave him a power of attorney to check up the brokerage records. I gave him the figure \$6,450 which appears after "Miscellaneous commissions." Government's Exhibit R-59 is my return for 1934 prepared by Mr. Brantman. The item shown on Line 1, "Miscellaneous, \$13,700.50," is the amount I gave him but I told him my business was gambling. I may have taken the figure from a memorandum book or from a piece of paper. Government's Exhibit R-60 is my return for 1935 prepared in Brantman's office. I signed it. On Line 1, after "Salaries, wages, Commissions, fees, etc." is \$2,700. That is all of my
1234 earnings for 1935. I gave that figure to Brantman.

Government's Exhibit R-61 is my return for 1936 prepared by Brantman. I gave Brantman the figure \$10,950" after "Miscellaneous earnings." It was given in a lump sum either out of the little book I had or marked down

on a piece of paper and handed to him. Government's Exhibit R-62 is my return for 1937. It bears the signature "A. J. Creighton" and was prepared by Joseph Radomski. I gave him the figure \$20,868, opposite "Other income." That is the total amount of money I made that year. I assume I gave it to him in a lump sum. I also gave him the loss on there from stock market operations. I changed from Brantman to Radomski because I gave Brantman money to pay my tax in full and on several occasions I got notice from the Internal Revenue Department that my quarterly payments were due. When I called him about it he said there must be some mistake and that he would take care of it. When the next quarterly payment came around I got another notice. I lost confidence in Brantman. I think Radomski had been filing returns for people at my places and I asked him to make out my return. He used to be a revenue agent and I thought he ought to know how. I don't remember just how I got in touch with him. I did not know he was working for defendant Johnson at that time. I never saw him at Sunny Acres. Government's Exhibit R-63 is my return for 1938. It was prepared by Radomski and signed by me. The item "Income or loss from business or profession, \$11,300" was given to Radomski by me. Defendants' Exhibit R-64 is my return for 1939 prepared by Radomski. The item on Line 9, "Income or loss from business or profession from Schedule D \$22,279.81" was gain from gambling. The figure on the next line is from my brokerage account. I have been out to Johnson's farm a few times. I would say three or four, just visiting. I 1235 remember seeing Mr. Wait out there, but no other defendants.

Redirect Examination by Mr. Hess.

Government's Exhibit R-58, R-59, R-60 and R-61 were signed by me in blank and later filled out for me by Brantman. I told Brantman the source from which I received my income. Brantman was then making out returns for gamblers generally. The same was true of Radomski later. I don't know whether the figure "2" in a circle on the checks is a teller's number. I know nothing about it. Mr. Johnson did not bring me to Brantman's office and introduce me to Brantman, as Brantman testified. I never discussed my income tax returns with Mr. Johnson or with anyone else except the two auditors who prepared them.

I know Nadherny, the architect. I paid him for the extras at 9730 Western. It amounted to about \$6,000. I checked the chart, defendants' Exhibit C-3, and verified it with electric light bills for 1936 and with Social Security records for later years.

DEFENDANTS' EXHIBITS C-3, C-4, C-5, C-6, C-7 (a, b, c and d) received in evidence.

WILLIAM P. KELLY, being first duly sworn, testified as follows:

Direct Examination by Mr. Callaghan.

I live at 621 Washington Boulevard, Oak Park. I am thirty-seven and married. I graduated from high school and then took a job as stenographer with A. M. Castle & Company. I stayed there about a year and a half and then I went to work for Fishman Glass Company as a stenographer and later I was with the successor of this company as a salesman. I worked as an estimator and solicitor for them until about 1925 or 1926. Then I worked for about a year for another glass company. In 1927 I went to work for the Lawndale Kennel Club and stayed there until it closed. During all this time I had been doing some gambling. I rented space for the D. & D. Club in 1936 after negotiating with Mr. Tavalin, the agent of the building. I first occupied space in the basement and then in August or September I went up to the second floor. In my talk with Mr. Tavalin I learned that William R. Johnson owned the building. I did not know who owned the building when I started my negotiations for space. I finally came to an agreement with Tavalin for \$450 a month. Occasionally I got behind in my rent. I could not pay my rent when I was not operating. I occupied the premises from May, 1936, to May, 1939. I operated with horses for only a few days in October, 1939. I was operating approximately forty per cent. of the time during this period. I paid all bills for supplies, public service and employees' wages while I operated the D. & D. Club. I hired the employees and directed them. Mr. Johnson never employed anybody to work at the D. & D. Club nor did any of the other defendants. I gave all orders there and settled all disputes. I was never employed at any of the gambling establishments named in the indictment except for myself at the D. & D. Club. Some

of those named I never heard of. I never hired any of the employees to work in any of the other establishments nor did I exercise any control over any person employed in any such establishments. I contracted for telephone service at the D. & D. Club in the name of Joseph Carpenter because I did not want my name to appear on telephone bills. The contracts are in my handwriting and I paid all the 1237 bills. When I started at the D. & D. Club I had only four or five employees but it built up to possibly 125 employees on both shifts. I did not have so many employees when I had just horses in the afternoon. I filed income tax returns for the years 1936 to 1939 inclusive. I never discussed these returns with defendant Johnson nor with any other defendant. I never discussed with any defendant the filing of his return or the returns of the various defendants. I never discussed with any defendant the contents of the returns of others. I did not know whether the other defendants filed income tax returns or the amounts of the returns. I knew nothing about the amount of the return filed by William R. Johnson and never discussed the subject with him. I cashed many checks at the D. & D. Club. These checks did not necessarily represent losses of patrons. I also exchanged currency to get new money for old. It was just a turn-over of money. I cashed many checks for my neighbors. There was a garage around the corner that used to come in with its payroll. I also cashed checks for the employees at Ambassador East. The Bennett Landgren Garage payroll was around \$200 to \$300. Many times I would cash a patron's check for \$100 and he might lose \$20 or \$30 and go out with the rest of the money. Other times I cashed checks for patrons just to accommodate them. I never turned over to defendant Johnson any profit or gains from the D. & D. Club nor to any other defendant. Nor did I ever agree to turn over any income from the club to any other person. I paid the decorating bill at the D. & D. Club. We used \$100 bills for cash-outs where the patron won more than \$100. Where patrons played at the cash game and accumulated \$5 bills we would give them \$100 bills for the 5's which were our working money. I have known the defendant Johnson for probably twenty 1238 years. I saw him at the D. & D. Club many times. Sometimes he would come in looking for a gamble and sometimes I would call him. Sometimes he came once or twice a week and sometimes four or five times a week. When a table got to a point where I could not handle it I

would call Johnson. I would check the table and turn it over to him. From that time on the table was his. He stood the losses and took the winnings at that table. When I could not get hold of Johnson the players had to stay within my limit.

(The following proceedings took place out of the presence of the jury.)

Mr. Callaghan: Defendant Kelly offers in evidence defendants' exhibit marked K-4, being indictment No. 32156 returned March 19, 1940, by the same Grand Jury that returned the indictment on trial. The first count of the indictment charges defendant Kelly for 1936 with wilfully attempting to evade income tax of \$23,925.53. The second count charges defendant Kelly with wilfully attempting to evade income tax for 1937 in the amount of \$109,359.89, and the third count with attempting to evade income tax for 1938 in the amount of \$109,700.01. I offer to prove that the William P. Kelly named in this indictment is the same William P. Kelly on trial now and that the income which is described in indictment No. 32156, Exhibit K-4, is the same income which is charged to defendant Johnson in the analysis made by the witness Clifford.

Mr. Hurley: We state the same objection to this as we stated to the other indictment,—that it is immaterial.

The Court: Objection sustained. I think that if I were prosecuting this case I would not object to it. It has 1239 no more materiality than a streetcar transfer but I think I would let it go in.

Mr. Callaghan: The occasion may arise when we might want to plead former jeopardy.

(The following proceedings were had in the presence of the jury.)

I paid Social Security on my employees during all the time I operated the D. & D. Club. The column marked "D. & D." on defendants' Exhibit S-28 shows correctly the periods the D. & D. operated for the years 1937, 1938 and 1939. The year 1936 is approximated from my light bills. They were large when I was open and small when I was closed.

Mr. Callaghan: We offer in evidence this column of the chart.

Cross-Examination by Mr. Miller.

I graduated from high school in 1920. I first worked for A. M. Castle & Company as a stenographer and then for the Fishman Glass Company. I forgot to mention that I worked for Charles Newberg & Company in 1928 after I worked at the race track. I worked at the Lawndale Kennel Club from spring until fall of 1927. I worked there for defendant Johnson who employed me. He had been a neighbor of mine when I was living on Quincy Street. I handled betting tickets at the track. I set up the trays for the sellers at the windows. In those days they did not have what are called totalizers. I do not remember what compensation I received. Probably \$45 or \$50 a week. I was a salesman and estimator for the glass company in 1928 and probably drew \$50 a week. I also forgot to mention that I worked a short time after that in 1929 for the 1240 Western Electric Company in the bookkeeping department. I worked there about six months. I don't remember my salary but it might have been about \$35 a week. After that I just gambled around Chicago. From 1929 to 1936 I did nothing but gamble. I never worked in a horse book or in any other gambling establishment. I gambled mostly around card shops and poolrooms. I was in gambling houses around Chicago. They did not have names. One place was at Cicero and Madison where I used to shoot craps. I have been at the 4020 Club but I never gambled there. I never had a job at the 4020 Club and I don't know who was running it. I had a small bankroll when I was gambling. My mother was dependent on me. I might carry \$50 with me. I do not recall whether my bankroll was \$300 or \$400 or \$500. I cannot recall offhand any other places other than those around Cicero and Madison but there were other places around town where I gambled. I shot craps on the North Side and also on the South Side. I shot craps at 67th and Stony Island in a cigar store. I can't remember the spots I gambled four or five years ago. These were not regular gambling establishments. They were just crap games. I lived out in Austin at that time. That was a long ways from 67th and Stony Island. I don't know how often prior to 1936 I was in a regular gambling establishment. I went to them occasionally. It is hard to say how often. It might have been once a week and then maybe not for two weeks. I know the defendant Hartigan and have for twelve years or more. I do not remember

where I met him,—somewhere around the West Side. I do not remember whether I was introduced to him or whether I just met him some place. I think I met him while I was a glass salesman. I do not recall that I sold him any glass. I have gambled with Mr. Hartigan. I did some 1241 gambling with him at Harlem Stables. I may have gambled with him before he opened Harlem Stables but I do not remember right now. I saw Mr. Hartigan from time to time after I met him twelve years ago. I never kept track of the number of visits I had with him. I might have seen him once or twice a year on the West Side after I met him. I never visited at his home and he never visited at mine. I used to go out to Harlem Stables when my place was closed, maybe once or twice a week. I would be visiting there and I might gamble once in a while. I used to see Mr. Johnson at Harlem Stables once in a while. Occasionally I would take a small piece of a game with Hartigan. I never did anything else but gamble there. I know the defendant Sommers for possibly eight or ten years. I think I met him down on 12th Street in one of those card shops near Kedzie. I don't recall just the place where I met him. I may have been shooting craps there at the time. I may have met him in a room back of 12th and Kedzie. I don't know who ran it. I did not see Sommers very often. At first maybe a couple of times a year. I never gambled with him. I have visited at the Horse Shoe maybe six or eight times. I never worked there or gambled there. I may have seen the defendant Johnson 'here once in a while but none of the other defendants. I know John Flanagan for perhaps eight or ten years. I do not remember where I met him. I may have seen him three or four times a year during all that period. I have known you for a long time and I don't know where I met you either. I can't remember where I met all the people I know. I have seen him at his place of business at 4020 Ogden. I never gambled there and I don't recall seeing any of the other defendants there. I have 1242 known Ed Wait for thirteen years. I worked with him at the Lawndale Kennel Club in 1927. I don't know what he did there. I was pretty busy with my own work. He never gave me any orders. I have seen Mr. Wait very few times since my employment at the Kennel Club. I think I saw him one time out at Lincoln Tavern when I was out there visiting Jimmie Hartigan, who ran a gambling house there. I think it was in 1935. I have seen Mr. Wait at the Bon-Air during the last two years. Perhaps a dozen times.

I would be there having dinner and watching the show and I would see him walking around. I never gambled at the Bon-Air.

Q. Were you ever in that gambling room out at the Bon-Air?

A. I may have been, I don't recollect.

Q. What is your best recollection on that subject?

Mr. Callaghan: That question has been asked and answered now just four times.

Mr. Miller: It has not been answered yet, I submit.

The Court: It has gotten to be the fashion to answer, "It may have been" or "It might not have been." Those are not answers. We might as well determine that now.

Mr. Callaghan: The witness said he did not remember. I submit that is an answer. If he does not remember he does not remember.

The Court: I am just referring to those answers, "It may not have been," "Maybe I did, maybe I did not." Those are not answers. Go ahead.

Q. You don't know whether you were in the gambling room or not?

A. No, I do not.

I do not remember seeing defendant Wait anywhere else. I was at the Villa Moderne once for dinner but I did not see Mr. Wait. I did not go to the gambling room there.

I know the defendant Brown since some time in 1938 1243 when I started to do business with him at his currency exchange. I walked in and introduced myself. I brought some checks to have them cashed. Jimmie Hartigan asked me to take my business there. He had some interest in the currency exchange. I don't think Hartigan was there when I went in. I used to go over on an average of three or four times a week when I was open. I would leave my checks and then pick up the money the next day. There may have been occasions when I sent my checks over but most of the time I took them there myself. I would usually get there around noon. I know Koog Downey. That may be Maurice. He never worked for me. I had two Downeys working for me at the D. & D.,—Duff and Woose. I don't know their right names. Those are nicknames. They were both doormen. I think they are related to Bernice Downey but I cannot vouch for that. Duff used to take checks over to the currency exchange for me. He also used to take checks home and his brother would take them to the Albany Park Exchange. I would put them in an envelope

and seal it and give it to him and his brother would take them over the next day. There was no special reason for changing the method of handling my business when I started at the Lawrence Avenue Exchange except I just wanted to take care of it myself. It is about a fifteen-minute ride over there. The Downey boys worked for me all the time I was open. I know John W. Geary, also called Bud. He worked for me at the D. & D. Club as a cash-out ticket writer. He wrote out a ticket for whatever amount was called out and then put the same amount on the stub. My Social Security records will show the periods he worked for me. I know Barney McGrath. He worked for me as a floor man or box man. He worked on and off for a couple of years. I know defendant Mackay for three or four years. I got acquainted with him when he asked for a job at the D. & D. Club around the first part of 1937. I think he 1244 worked as a box man for about a month and a half. I don't know whom he worked for prior to that. I inquired about his qualifications when I interviewed him. I had Peter Montague working for me as a box man at the D. & D. Club. I can't keep in mind how many times these fellows worked for me or the length of time. I know defendant Creighton. I have known his family since I was a little kid but I have not known him personally very long. I have known his brother for twenty years or more. I think I was in the Southland Club once. I was never at 9730 Western nor in any other of Creighton's Clubs. I have known Roy Love since he did some work for me at the D. & D. Club in 1937. He did a little repair work. I never knew him before that time. I asked Jack Sommers whether he knew anyone who could do some repair work and he recommended Love. My contacting Mr. Tavalin with respect to leasing the premises at Dearborn and Division resulted from my noticing a For Rent sign in the building. I was looking for a place to open a small horse book on the near North Side and I made arrangements with him to take over the basement space and also the lodge hall space on the second floor. Both spaces were empty when I examined them. They had been occupied by a lodge,—the upstairs for a lodge hall and the basement for other lodge uses. I think the basement had been used for a horse book at one time but there was no equipment there when I took it over. I hired a couple of carpenters and put in a partition and a counter for a horse book before I opened up in the basement. Roy Love did not do this basement work. Mr. Schultz, who testified, worked in the room

upstairs. I operated nothing but a horse book in the basement. I opened in the spring of 1936 around April. I think I opened with four employees. I was in direct charge. I

had not worked in a horse book prior to that time.
1245 Some of my help was experienced. The only experience

I had was when I worked at a race track. Around December I opened up the gambling room on the second floor. When I took the room over it was just a big vacant room except that it had some benches around the wall and a big organ in the corner. I tore out the benches and the organ. Roy Love did this work for me. I had called Jack Sommers to recommend someone for the job and he recommended Love. I put in a door at the top of the stairs and a counter and wallboards for a horse book. I think I opened the book about August, 1936, and in December I put on the side games. I added the necessary tables for craps and blackjack and I put in some roulette wheels. There were also chairs for the patrons. Later on I carpeted the front and put in some new plumbing. I paid for all of these alterations and for the equipment. I think the basement cost me around \$100. I might have spent \$250 upstairs for alterations. The total cost of the equipment and the improvements was close to \$1,000, most of which was spent in the latter part of 1936. From time to time other improvements were made. I started operation of the side games at night in the latter part of 1936 and continued until about February, 1937, when I was closed. I may have continued with the horse book during the spring of 1937 but I did not open the side games until about June. I started in a small way and built up as trade increased. I think at one time I may have had three or four crap tables and four wheels. They never operated all at one time. The house limit was \$100 on the crap table and \$10 on a number of the wheel. People used to come around in droves looking for jobs. They came from all over the country. Most of them were experienced gamblers. Before opening the D. & D. Club I had never

1246 operated a gambling house but I had gambled. When I opened the horse book early in 1936 I had about a \$2,500 bankroll and by the time I opened with the side games it had increased to \$5,000. I paid for the improvements out of the income of the business as I went along. In the horse book we had cashier's sheets and on these there was a record of ins and outs. At the end of the day the difference showed whether I had won or lost. The help was paid in currency every day and there were other ex-

penses taken out of the income. The duplicate sheets were thrown away at the end of the day and the originals were kept for a couple of days to check against mistakes and then they were thrown away. I kept track of my winnings in a little book. At the end of the day I would write down on a piece of paper the result of the day's operations and then at the end of the month I would total it up and throw the daily memoranda away. In the operation of the side games the money changer kept a scratch sheet which was turned over to me at the end of the day. After I checked his cash and pay-out slips I threw it away. The ins recorded were all the money taken in and the outs were all the money paid out including expenses of operation. I kept a daily memorandum of the results and then at the end of the month I would put down the one figure total in a pocket memorandum book. I have that book now which shows the results of my business by the month for the last two or three years. Defendants' Exhibits K-1(a), K-2(a) and K-3(a) are records I was telling about covering the years 1937 and 1938 and 1939. That is the only record I have. For a short while I occupied a small space on the first floor as a cigar store. This was included in the original rent. I contended that I was paying too much for my space and Tavalin told me to go ahead and use the store for a while. During the months I was not in operation I did not pay rent for 1247 the premises. Mr. Tavalin was always after me to collect the rent but I told him I could not pay it because I was not operating. I got behind a substantial amount in 1937 and later made a settlement for \$100. I paid the rent at Tavalin's office or he sent an employee out to collect. I paid in currency and got a receipt. Each month when I got a new receipt I would throw the old one away. If I was closed long enough my rent arrearage would run as high as \$3,000. I think the highest amount paid in settlement of these arrearages was \$100 but I don't remember the date. I paid all the light and gas bills while I operated. When I paid the bill and got a receipt I threw away the old one. I don't think I have any receipted bills now but the records are at the Meter Service Corporation. An air-conditioned unit was installed in the premises while I was there. Mr. Johnson arranged for the installation. The first I knew about the matter was when a man came to survey the premises. I did not request Mr. Johnson to put in this plant. After the plant was installed Mr. Johnson gave me the money to pay a contract price. It was

about \$11,000 in currency. I don't remember just where Mr. Johnson was when he gave me the money but I think in front of the building or in the lobby. The money was wrapped in paper and he handed me the package. I don't remember just what he said but probably he had made a date with the salesman and wanted me to take the money over and pay the bill. I met the salesman at the bank and we went to the teller's cage and paid the bill. After this air-conditioning unit was installed my rent was not increased. It remained the same throughout my tenancy. I do not remember whether I was in arrears after this unit was installed but I was in arrears several times. Whenever I closed I got behind. In 1939 I was closed but I wouldn't say whether I was in arrears in rent. I never paid any rent to Mr. Johnson personally. I had all my dealings with 1248 Mr. Tavalin of the General Management Investment Company. In my talk with Mr. Tavalin about renting the building I first learned Mr. Johnson was the owner. When I told Mr. Tavalin I wanted to use the premises for a club he said he would have to talk to the owner about it and when he asked me to give him some references I asked him who the owner was and he told me. I then told him I was acquainted with the owner and that I thought he would vouch for my credit. I never talked with Mr. Johnson about taking over the premises. I dealt entirely with Mr. Tavalin. Government's Exhibit R-14 is my income tax return for 1934.

Q. And who prepared this for you?

Mr. Callaghan: This is not proper cross-examination. The direct examination was confined specifically to the years named in this indictment.

The Court: Overruled.

The Witness: I don't know who prepared this return but probably Brantman. I filed returns prior to that time but I do not recall the specific years. I do not remember whether I filed returns for 1932 or 1933. If I made enough money I did. I cannot state specifically any year prior to 1934 when I filed a return but I know I filed some.

Q. On this Government's Exhibit R-14, Line 1, where it says, "Salary, wages and commissions, miscellaneous commission earnings (salary, \$4,745)."

Mr. Callaghan: Same objection.

The Court: Overruled.

The Witness: That amount is not salary. It is money I earned. Nobody paid it to me. I furnished the figure to

Brantman from a slip of paper I kept. Government's Exhibit R-15 is my return for 1935 which was prepared 1249 by Brantman. On the first line is \$1,800. I made the money gambling. Nobody paid it to me. It might not have been exactly \$1,800. Sometimes I took a little the worst of it and made it round figures. Government's Exhibit R-16 is my return for 1936 which was prepared by Brantman. My signature is at the bottom. The sum \$3,655 on the first line was earned by me as profits from my horse book. I arrived at the amount from sums entered on pieces of paper and the totals put down from month to month. I did not give Brantman these details. I just gave him one figure. I first met Brantman at his office. I went there and introduced myself. I had not known him prior to that time. I knew that Brantman more or less specialized in handling tax returns of bookmakers and gamblers. I heard he was good on tax returns and went to see him. Government's Exhibit R-17 is my return for 1937 which was made out by Joseph Radomski. On Line 11, the sum \$9,135 opposite the word "Speculator" is profits from my gambling business. I gave that figure to Radomski from my memorandum which was a tabulation from month to month. I had known Radomski for some time. I just chanced to meet him and he told me he was making out income tax returns and I told him I would give him my business. He had worked with me at the Lawndale Kennel Club. I just happened to meet him on the street and he gave me his phone number out on Green Street where he was working. I did not know whether he was making out returns for other defendants. I had no talk with him about it. Government's Exhibit R-18 is my return for 1938. On Line 9 the figure \$10,435 was furnished to Radomski by me. I signed the return. Government's Exhibit R-19 is my return for 1939. It was prepared by Radomski and I supplied him with the figure \$10,324, income from business.

1250 Q. I show you Government's Exhibit R-16(a) for identification and I will ask you to state whether you have ever seen that before.

Mr. Callaghan: This is not proper cross-examination. The document is not in evidence.

The Court: You may answer.

The Witness: I think I have seen the document before. It appears to have been mailed to me so I must have received it. I took it down to Brantman who had prepared my return for the year involved. The document does not

bear any of my handwriting. The writing on there is not mine and I don't know whose it is. On Government's Exhibit R-14 my signature appears at the bottom but I do not recognize any of the other handwriting which appears in pencil. I have never seen it before. I never talked to anybody about the matter written on this document. I never saw anybody do any of the writing on there. I closed the D. & D. Club some time in October, 1939. That is the last time I was open. I stored the equipment in the basement at Dearborn and Division. Some of it is there now and I sold the rest of it. I paid no storage to anyone since I put my equipment in the basement. I don't remember ever getting any equipment from defendant Sommers for use in my place. I seldom moved any equipment but I may have moved a table to somebody. As I recollect I loaned a crap table to Hartigan and the Kedzie Motor Service moved it. The man testified in this case. I don't recall loaning equipment to anyone else. I never sent anything to the Horse Shoe or out to the Dev-Lin. I have with me my Social Security records. Government's Exhibit S-11 is the one for 1937. John W. Geary worked for me in that year. He was a ticket writer in side games. Barney McGrath worked at the D. & D. Club in 1937 as a floor man and box man. He got \$15 a day. Conrad 1251 McGrath did not work there. Government's Exhibit S-12 is my records for 1938. They were kept by Mr. McLaughlin. Geary did not work for me in 1938. Government's Exhibit S-13 are my records for 1939. They show Geary worked for me from January to May as a ticket writer. I got acquainted with him in 1937 when he came and asked for a job. I have seen him at the Bon-Air but I don't know what his duties were. I saw him in 1938 and 1939 but do not remember seeing him in 1940. Mr. Johnson came frequently to the D. & D. Club after I put in the side games around December, 1936. I invited him there. I knew he was a gambler around town with a good reputation and I wanted him there to take care of any high gambles that came. I don't recall that there was a game in progress the first time I telephoned him. He came to the club and I had a talk with him about his taking over gambles that were too high for me to handle. There was no one else present at this conversation. After that he came in quite frequently and sometimes he gambled. If he was not gambling he would be visiting with people in

the club. No one ever bet \$100 with me because I would not take it. I had a small bankroll and I could not handle big betting. If a high bettor got in a game I turned it over to Mr. Johnson. I would check the table to him and he would take it over. In checking the table I would sell him the dealing money on the table. Sometimes this would be \$1,000 or \$1,500. I would also sell him my rack of checks. When he was running a table he might sit at the box or upon the stand and watch. My dealers worked at the table and I paid them. Johnson did not reimburse me. I was glad to have him there. He had a fine reputation and I was a small gambler trying to make a reputation. I never participated in his games. In these big games Johnson needed a bigger bankroll than I had on the table and he 1252 would take it out of his pocket. He would take any bet. There was no limit. He always had plenty of money with him. There were many high rollers who came in to my place to gamble. A man by the name of Loeb, who was a New York broker, and a man named Sweitzer from Chicago. I don't know their first names. I think Mr. Sweitzer was in the liquor business. I never cashed any checks for these men. I have not seen Mr. Sweitzer recently but I think he was in my place in 1938 and perhaps the early part of 1939. The same is true of Mr. Loeb. There was also a broker from Chicago by the name of Sutterman. I don't know his first name nor the concern with which he is connected. I think he is on La Salle Street. There were a lot of other people. Another was a Lester Clifford from Cincinnati. I think he was in the wholesale clothing business. I have gambled with these men. The only time I wanted Mr. Johnson to take them on was when I was not able to handle the play. Sometimes these men made high bets and sometimes they did not. I have not seen any of them recently nor talked with them. I closed my place about the first of June 1939 and I have done nothing but gamble since. I gambled some at Harlem Stables. I saw Jimmie Hartigan around there. I imagine he was the proprietor. Some of the dealers who worked at Johnson's table were Frank Samples, Eddie Notter, Toby Lasson, Monk Hill, Hermann Siegel and Hymie Indes. These are not all the money dealers I had. They would come and go. They worked for me a while and then jumped to Saratoga or down to Florida. They went all over the country. Those I have named worked on the table with Mr. John-

son. They would not necessarily know he had taken over the table. They would see me checking the table but I did not tell them what I was doing it for. They would see him put money on the table and when he was on the box or on the stand they would know that he had the table. I 1253 don't remember seeing him deal. Johnson never sat on the look-out stand when he did not have the table. The dealers did not necessarily know that he had taken over the table when they saw him on the stand. Only box men are permitted to sit on the stand. The platform would accommodate two stools. Johnson would put his bankroll on the table and my dealers would handle it. The winnings were put in the box and they belonged to Johnson. He took the money away with him without turning it over to me.

Redirect Examination by Mr. Callaghan.

I bought supplies from several dealers around town,—the American Supply Company, the Edward Don Company, and Lawton & Company and three or four others. Johnson had a good reputation around Chicago in the gambling fraternity and it helped me in my business to have him there to take care of the high gambling. He had a large bank roll. Johnson never touched any of my money. He could not go to my cashier's window and get money for any person. I heard Hayes testify about Johnson asking my cashier for some money but that never occurred.

DOMINICK CARROLL, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I am in the roofing insulation business. My company is the Bonded Roofing & Insulation Company, 3050 Armistage Avenue, Chicago. I am general manager and director of sales of the corporation. The books and records are kept under my supervision. I did some insulation for defendant Flanagan in the spring of 1939. My first conversation with him took place at 4020 Ogden and I tried to 1254 I had argued about insulation making his gambling house more comfortable both winter and summer, he

said it might be a good thing but that he did not own the building and that I would have to talk to the landlord, Mr. Johnson. Several days later I met Mr. Johnson at the 4020 Club by appointment. I don't know the date but it was in the spring of 1939. I told Mr. Johnson I had been talking with Mr. Flanagan about insulating the building and he said, "I am not going to put in any insulation. If Flanagan wants it he will have to put it in." I talked further with Flanagan about the matter and finally got a contract from him. I agreed to insulate the roof of the building at 4020 Ogden for \$325. I completed the job and Mr. Flanagan paid me the contract price. Defendants' Exhibit F-2 is the record giving the name and file number of our jobs. Defendants' Exhibit F-2 (a) is an envelope containing the job tickets. The entry in the book marked "F-2" is "J. Flanagan. Account Number 1021, 4020 Ogden Avenue, \$325, 5/25/29, insulation." The envelope marked "F-2(a)" contains the work tickets showing the amount of materials used and the time of the men who did the work. These records are kept in the regular course of business and they truly record the transactions as they occur. Defendants' Exhibit F-3 is the ledger sheet from our books showing the account of John Flanagan to which I have just been referring. It is kept in the regular course of business and truly records the transactions in the account. This account refers to the insulation job done for Mr. Flanagan at 4020 West Ogden Avenue, Chicago, and shows that he paid the contract price.

Mr. Thompson: We offer in evidence DEFENDANTS' EXHIBIT F-3 for identification, the book entry F-2 having already been read into the record.

1255 Mr. Plunkett: The Government moves to strike the testimony of the witness relating the conversation with defendants Johnson and Flanagan on the ground that it is self-serving.

Mr. Thompson: Our position is that proof of these conversations by this witness is not self-serving. As to Mr. Flanagan it is proof of a transaction. As to all the other defendants it is certainly competent. One of the issues in the case is that Mr. Johnson is the owner of this gambling house. This is proof tending to show that he was not and that he leased the premises to Mr. Flanagan who was the owner. It is also competent in connection with the alleged conversation between Johnson and Lenz of the Nation-

wide. If that was competent evidence then this is some explanation of why Mr. Johnson would be interested in settling a dispute which might lead to loss of a tenant in his building.

The Court: I think I will deny the motion.

Cross-Examination by Mr. Plunkett.

I have been at the 4020 Club quite often as a patron and I was familiar with the place when I talked with Mr. Flanagan about insulation. I was there playing the horses and talked to Mr. Flanagan about insulating his roof. I had been a patron of the 4020 Club about ten years but I never patronized any other gambling house. There was a time when this club operated at about 2141 South Crawford. I only played the horses. I never went to the club at night. I never knew anyone connected with the place except Mr. Flanagan. I knew some of the employees but did not know their names.

1256 Mr. Thompson: We offer in evidence DEFENDANTS' EXHIBITS J-6 and F-3.

Mr. Plunkett: We have no objection to them.

The Court: They may be received.

JOSEPH I. SPAGAT, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I live at the Brown Hotel in Louisville. I am catering manager there. I have been in the business for twenty-five years. I was employed at the Bon-Air Country Club in 1938 and 1939. I began my employment about April, 1938. My employers were Mr. Johnson, Mr. Skidmore and Mr. Wait. About April, 1938, I had a conversation at Bon-Air Country Club with Mr. Skidmore and Mr. Johnson. Mr. Johnson introduced me to Mr. Skidmore, saying, "This is our catering manager." Mr. Skidmore said, "I am glad to have you with us." I built the kitchen before the season opened. There were a lot of men working around the premises during that period. Mr. Johnson and Mr. Skidmore were there frequently and also Mr. Nadherny, the architect, and Mr. Love, the builder. I was buying equipment

from the Albert Pick people and supplies, liquor, groceries and so on from merchandisers. The club opened in 1938 two days before Decoration Day. After the club opened Mr. Skidmore told me he appreciated the work I was doing for the club. Mr. Skidmore was around there while construction was going on and talked with a lot of people. After the club opened Mr. Skidmore came out often in the afternoon and the evenings and complimented me on the work I was doing. I cannot fix exact dates of conversations. They came up very often. One time I wanted an okay and Mr. Johnson told me to talk to Mr. Skidmore.

During 1938 Mr. Skidmore frequently sent flowers 1257 from his farm. In 1939 he bought flowers for us through some florist in town. In 1938 I talked with him about supplying poultry. It was about June after the club opened. He told me to get in touch with Mr. Smith, his farm manager, and look at the chickens. During the construction in 1938 I used to see Pine Tree Farm trucks at the Bon-Air Country Club picking up rubbish and garbage. They also delivered milk and cream for us. These trucks were marked "Pine Tree Farms." I cannot remember particular conversations with Mr. Skidmore. They were just general conversations talking business. I went to work at Bon-Air again about April, 1939. Mr. Johnson was at the club nearly every day for a while. Mr. Skidmore would be there three or four times a week. He would talk to Mr. Love and some of the contractors. I saw him talking to Mr. Davis who had the painting contract and to Mr. Naderhny, the architect. Near the close of the season in 1939, when Mr. Johnson was on vacation, Mr. Skidmore came to the club nearly every afternoon and evening. The club season ended on Labor Day and the conversation I have in mind took place about 9 o'clock in the evening about the middle of August. Mr. Elmer Johnson and Mr. Skidmore were dining together and Mr. Skidmore sent for me. Mr. Skidmore told me that there was some irregularity at the club and he wanted me to discharge immediately two kitchen checkers. Opal Ellis was one of them. He told me that if these irregularities occurred again he would discharge me. I went immediately to the kitchen and discharged the two checkers. During the construction of the gambling room at the Bon-Air Mr. Skidmore was frequently in the room looking around and talking with the architect and the contractors. I was not at the club in 1940. I know the defendants,

except Mackay and Brown, from seeing them at the club at dinner parties. I was in the gambling room at the 1258 Bon-Air and saw Mr. Wait and Mr. Hartigan working in there in 1939. There was no gambling there in 1938. I knew some of the employees in the gambling room but did not pay any attention to them. I was a very busy man in my department. I am not sure I knew any of their names. I knew Bud Geary. He paid our bills in 1938 and 1939. I have not seen him since I left there at the end of the season of 1939. During most of the season of 1939 Roy Love was in charge of the kitchen late at night. He kept the place clean. I don't know Joe Conroy. I know Barney McGrath as a guest of the club. I was paid by check by Bud Geary every Tuesday. I never had any dealing with any of these men I have named except Mr. Wait. He was there every day during the seasons of 1938 and 1939. I have been in Louisville since October, 1939. I arrived in Chicago this morning. I came at the request of Mr. William R. Johnson and I talked with him at noon today.

EDWARD H. WAIT, being first duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 6321 North Francisco, Chicago. I have resided in Chicago forty-seven years and I am seventy-two years of age. I was raised on a farm and attended public school at Kirksville, Missouri, and later the State Normal School. I worked as a clerk in a dry goods store for about two years and then went to Wichita, Kansas, and worked as a clerk in a commission house for about two years. I came back to Kirksville, Missouri and started buying and shipping live stock. In 1893, at the time of the Columbian Exposition, I came to Chicago and became a professional poker player. Since that time, with some interruptions, I have operated gambling houses in and around Chicago. I served in the army for a year during the Spanish-American War and have been in the gambling business since. Defendants' Exhibit S-3 is a lease for the Dev-Lin Club made between John Engstler and myself May 1, 1935. I operated the Dev-Lin Club in the summer of 1935. Before I opened it I built a brick addition to the dance hall

that was on the property. Along in the fall I sold the property to defendant Sommers for \$5,000. I operated the club and I was the owner and no one else had any interest in it. After selling the club to Mr. Sommers I operated a restaurant at the Lincoln Tavern. No one was associated with me in the operation of this restaurant. At the same time defendant Hartigan was operating a gambling room at the Lincoln Tavern. I had no interest in this gambling room. I operated the restaurant at the Lincoln Tavern about three months and then I went out to the Villa Moderne near Highland Park and operated a gambling house there under an arrangement with the owner, Mr. Hutchins. No one was interested in this gambling house except Mr. Hutchins and I. None of the defendants in this case had any interest or connection with that gambling house. I operated there from 1936 to 1939. Mr. Boone Kelly assisted me. I became associated with the management of the Bon-Air Country Club in the spring of 1938. I learned that the club had been acquired by the present owners some time in the middle of December, 1937. Mr. Johnson and I stopped at Mr. Skidmore's office and he told us he had just bought the Bon-Air. He asked Mr. Johnson and me to go out and look at the property but we did not go for a week or two. During the first week or ten days in January, 1938, I visited the property. There was no one there except a watchman. About the middle of January I met Mr. Skidmore and Mr. Johnson there and Mr. Hendrickson, the 1260 watchman. There was a discussion about what should be done with the property but I do not remember the details. The club house was badly run down. There was some discussion of tearing off the back porch and making a garden there. Mr. Nadherny, the architect, and Mr. Davis, the decorator, were present at a later conversation. Mr. Johnson and Mr. Skidmore decided to build an addition about 50 by 60 feet. It was arranged that I should look after the detail work at the Bon-Air. Mr. Johnson and Mr. Skidmore made this arrangement with me early in the spring of 1938. Prior to the club season the addition was built and I made contracts for a bar and dishes and silver ware and kitchen utensils. During the course of the construction Mr. Skidmore and Mr. Johnson were there two or three times a week. I had a conversation with Mr. Skidmore about the purchase of the bar. I had prices from Liquid Carbonic and from Brunswick-Palke and Mr. Skidmore thought we should buy a bar from Liquid Carbonic.

I placed the order at around \$14,000 about the first of April. Mr. Skidmore gave me \$7,000 to pay on the contract and I don't know how the balance was paid. During the month of May Mr. Skidmore and Mr. Johnson were present and had conversations with the decorator. Along in the latter part of May the decorator suggested putting some family shields in the bar room representing the names Skidmore, Johnson and Wait. This was approved by the three of us and the shields were put on the bar room wall. On opening night Mr. Skidmore gave a dinner party at the club and Mr. Johnson was there greeting his friends. I don't think any of the other defendants were there. During the time I was there I saw trucks on the premises marked "Sunny Acres Farm" and some "Pine Tree Farms" and some "Bernstein & Skidmore." The Skidmore is the William R. Skidmore about whom I have been speaking. These trucks were hauling materials to the club property and hauling gravel and rubbish away from the property. Mr. 1261 Skidmore is the owner of the Pine Tree Farms. Trucks from this farm delivered poultry and milk to the club. Both Mr. Skidmore and Mr. Johnson were around the club three or four days a week during construction. I was there every day. A corporation was organized and I was given twenty-five per cent. of the stock for management of the club. Mr. Johnson and Mr. Skidmore gave me this stock. An arrangement was made between the corporation and the owners under which they were to get a percentage of the net profits for rent. Mr. Joseph Spagat was employed as the catering manager. During the operation of the club in 1938 Mr. Johnson would be there nearly every day and night for two or three hours. Mr. Skidmore would be there a couple of times a week. I don't remember any special conversation I had with these men during the operating season. I got the money to pay the bills from Mr. Johnson and Mr. Skidmore. They were supposed to pay 50-50. I got money from both of them from time to time. I advanced some money during 1938 and I was later reimbursed by Mr. Johnson and Mr. Skidmore. I was connected with the operation of the Bon-Air Catering Company during 1938, 1939 and 1940. In 1939 we did some more building. There was excavating done in the fall of 1938 and then a locker room was built on and the kitchen was extended. I paid the construction bills. I remember one instance when I paid Mr. Reedy, the plumbing contractor. Mr. Skidmore was present and he gave me three \$1,000 bills which I gave to Mr.

Reedy. One of the bills was the old form of currency and somebody remarked, "You must have got that out of the bottom of the box." Mr. Skidmore furnished me money quite often to pay construction bills. On one particular occasion I was on the roof with Mr. Skidmore and Mr.

Goldberg, the electrical contractor. Mr. Goldberg
1262 asked me for a payment on his contract and I did not have the money with me. Mr. Skidmore handed me \$5,000 in currency and I gave Mr. Goldberg \$2,500 of it. Mr. Goldberg and Mr. Reedy have testified in this case. I paid out about \$150,000 for construction in 1938, about \$25,000 of which was my own money. Mr. Skidmore and Mr. Johnson furnished the balance. They were supposed to contribute half and half but I don't know exactly the amounts contributed by each. Mr. Skidmore would hand Mr. Johnson money and Mr. Johnson would give it to me. In 1939 Bud Geary paid the construction bills. I paid nothing after 1938. In 1939 Mr. Johnson and Mr. Skidmore reimbursed me for the \$25,000 I had paid out. I know Leo Didier who testified. He worked for me at the Villa Moderne. I did not have the conversation with him which he related as having occurred at the Harlem Stables. Nor did I tell him that he would have to see Mr. Johnson about getting work at the Villa Moderne. Mr. Johnson had no connection whatever with the Villa Moderne and Didier did not say anything to me about having talked to Mr. Johnson about employment. I do not remember Mr. McGrath being in the Lincoln Tavern at any time when Mr. Johnson was there and I do not know whether the witness Schultz was employed there in construction work. Mr. Johnson had no interest whatever in the Lincoln Tavern when I was operating it. I don't remember Thomas Kehoe who testified here. He is right when he testified that I had charge of the roulette wheels at the Dev-Lin Club in 1935. I had charge of the whole house. I owned and operated it that year. I never had charge of the wheels at the Lincoln Tavern as he testified. I had nothing to do with the gambling house there. I might go in there once in a while but I had no interest in it. I know the witness William Rowlett but I don't recall having seen him at the Horse Shoe and I never
1263 operated the wheels there as he testified. I was never employed at the Horse Shoe and never had any interest in it. Rowlett worked for me at the Villa Moderne for a couple of years. He was wheel operator. Defendant Kelly never had charge of my roulette wheels at the Dev-Lin

and never worked for me or anywhere else except the dog track in 1927. I was never on a salary at the Villa Moderne and I never paid the employees as Rowlett testified. The cashier paid all wages. I remember the witness Nathan Cobb. He never saw me in charge of the wheels at the House of Niles. I was never there and do not know where it is. I was not at the Dev-Lin Club in the fall of 1936 when it was closed by the police. Mr. Johnson did not say to me and Jack Sommers on such an occasion, "It is all off, boys." I had a conversation with Agent Ruggaber some time in April or May this year. I did not tell Ruggaber that the \$5,100 reported in 1936 was salary from various gambling establishments. I received no salary from any gambling house in 1936. I think he asked me whether James Hartigan paid me a salary and I did not answer, "I can't answer that," but I answered, "No." I did tell him I couldn't identify which part was gambling profits from Villa Moderne and which was profits from the Lincoln Tavern. I had a second conversation with him along in May, 1940, when he asked me about the Carl Laemmle checks. I told him that Mr. Laemmle had given me these checks to pay gambling losses but that I did not win all of it because there were others in the game. Mr. Laemmle is dead. He was a motion picture operator from Los Angeles. I had known him twenty years or more. He was in Chicago and asked me to deal faro bank for him. I responded to the call and went to the Drake Hotel taking a faro bank lay-out with me. Mr. Laemmle and two other gentlemen played. I dealt the game. Mr. Laemmle lost and the rest of us 1264 won. Mr. Sommers cashed Mr. Laemmle's checks for me. He had no interest in them and did not know where I got them. None of these defendants knew about this game with Mr. Laemmle and none of them had any interest in it and none of them got any part of the winnings. The Mr. William R. Skidmore about whom I have testified was a defendant in this case when it started and he was dismissed.

Cross-Examination by Mr. Plunkett.

I think Mr. Skidmore is under indictment in another case for income tax evasion. I know there was an investigation of his income tax going on about a year ago this summer. The first time I have told anyone about the rela-

tions of Mr. Skidmore and Mr. Johnson at the Bon-Air was today from the witness stand. I told no Government Agent anything about Mr. Skidmore. I did not tell Agent Ruggaber about Skidmore having a half interest in the Bon-Air. I have known for three or four years that he did have a half interest there. I do not know anything about Mr. Skidmore's interest in gambling houses. I know he had no interest in mine. There is no Skidmore account on the books of the Bon-Air. I cannot explain why his name does not appear on the books. He said he did not want it there and Mr. Johnson said not to put Mr. Skidmore's name on the books. I don't know the reason. The first time the Bon-Air was mentioned to me was at Skidmore's junk yard. I had known Skidmore for thirty-five or forty years at that time. There was no particular reason for us being at his place on that day. Mr. Johnson and I just drove up there. Mr. Johnson had not mentioned the Bon-Air deal to me before that. Mr. Skidmore wanted us to go out and look at the property to see what we thought could be done with it. There was nothing said about a gambling house at the time. We were talking about fixing it up as a night 1265 club. Mr. Skidmore told us that he had bought the property and he was asking Mr. Johnson and me to go out and see what could be done with it. The discussion was to the effect that Mr. Johnson and Mr. Skidmore would own the property and I was to have an interest in it. Mr. Johnson said he knew nothing about the purchase until Skidmore told him. There was nothing said about Johnson paying for half of the land at this meeting in December, 1937. I drove out to the property first around the 10th of January, 1938, and a week or ten days later I met Mr. Skidmore and Mr. Johnson there. At this first meeting with Skidmore and Johnson at the Bon-Air nothing definite was decided. I was not employed at that time. I had done nothing since the season was closed at the Villa Moderne, the latter part of August, 1937. I have no record of the employees at the Villa Moderne. I never kept any. Mr. Hutchins, the proprietor, kept the Social Security records. The father and the two sons owned the property and I paid them twenty-five per cent of the winnings of the gambling house for its use. One of the Hutchins boys worked in the gambling house and we kept track of the business together. There was a sheet made up every night which showed the result of operations. It was just a blank sheet on which we

wrote what money was paid out and what money was left in the drawers. There was a record kept in a small book by Francis Hutchins. This was only a record of winnings and losings. It would be the total of the daily sheets. Pay-out slips were used. They were torn from perforated sheets in a pad. The same amount was written on the stub as was written on the pay-out ticket. The cashier's pay-out sheet and the stubs were checked against each other. My manager, Boone Kelly, would make out the tickets and Francis Hutchins would make the pay-outs. At the end of the day we could check the stubs against the pay-out sheet and know exactly where we stood. Boone Kelly was the 1266 floor man. There were dealers at the wheels. When a player won the dealer would call out to Kelly. There was no money at the wheels except what went into the drawer. They did not pay any money out of the drawer. Patron's money paid for the checks was put into the drawer and was later counted. From time to time this currency was taken to the cashier and turned over to him. Usually this was not done until we closed up. The money in the drawer had to correspond with the checks that had been sold at the table. The pay-out slips told how much had been paid out during the evening. The total amount of money in the drawer at the wheel was put on the pay-out sheet. After we had figured up the result the total was noted in our little book and then the sheets were thrown away. This was just a little notebook about 2 by 4 inches. Sometimes I would not be there for a week and then I would put down in my book in one figure what had been won and lost for the whole week. I had a new book for each year and I would throw the old one away. I kept the book until I made out my income tax and then I might throw it away. I don't know whether I now have any of these books at home. I also kept addresses and telephone numbers in this little book. I settled with Hutchins from time to time. There was no set time for settlement. I carried my little book around with me but I don't know whether I have it yet or not. I filed an income tax return last March. I may have had the little book at home at that time. I made out my own return. No one helped me. I knew what my income was. I carried it in my head. I knew what I had given Mr. Hutchins. I gave him \$2,500 at one time, and either \$1,000 or \$500 the next time. I gave him a total of \$4,000 in three payments. After we made our entries in our little ac-

count books we destroyed the daily sheets at the
1267 Villa Moderne. We had no further use for them and
did not think anyone else would have. I never thought
about the Government wanting to see them. I could have
kept them but had no use for them. Hutchins kept records
similar to mine but I don't know what he did with them.
That is true every year I was running the Villa Moderne.
We had from four to six employees in the gambling room.
Occasionally at night we might have some extra men work-
ing there. I usually had three dealers and two or three
extra men on Saturday night. It takes one dealer at a
wheel but you may use two men to the wheel. In addition
to wheels I had a hazard table. I did not have slot machines.
We were usually open from the last of May until the first
of September. Generally I was at the Bon-Air only in the
evenings. Sometimes I would be there in the afternoon but
never in the morning. During the construction period I
was out there in the daytime. During the three years we
have operated I have been away from there very few eve-
nings during the season. I had charge of the gambling at
Bon-Air. Mr. Hartigan assisted me in looking after the
gambling room. He was the floor man in 1939. The gam-
bling room was not open in 1938 or 1940. There were sev-
eral men working in the gambling room in 1939. There were
wheel dealers and crap dealers. I hired most of these men.
They came in looking for jobs. They were not sent from the
D. & D. and the Southland and the Horse Shoe. When men
came out looking for jobs I picked what I thought were the
best men. I knew wheel dealers and I could pick them. I
did not know much about crap dealers. I did not know any
of these men because they had worked at the Horse Shoe,
the D. & D. or Harlem Stables. I know about every wheel
dealer in the country either personally or by reputation. If
I did not know the crap dealers I asked Mr. Hartigan about
them. He knew most of them but I knew very few.
1268 I have seen Mr. Sommers visiting in the crap room
at the Bon-Air but I do not know whether any of the
other defendants were ever there. I may have known de-
fendant Flanagan for ten or fifteen years. I saw him at
the Bon-Air once or twice. I was never very well acquainted
with him and I don't remember where else I saw him. I
have known defendant Creighton for two or three years. I
have seen him at the Bon-Air and I do not remember having
seen him anywhere else. I never had any business dealings

with Mr. Creighton or Mr. Flanagan. I have known defendant Kelly for thirteen or fourteen years since he worked for us at the Lawndale dog track. Later I saw him at Division and Dearborn. I don't have any idea what he was doing in the meantime. I have known defendant Hartigan for ten or twelve years. I think I met him at the dog track but I am not positive. He was not employed by us. I saw him again five or six years ago when he called on me at the Dev-Lin. I know that defendant Hartigan was connected with the Lincoln Tavern but I don't know of any other place. I have known defendant Sommers for five or six years since the time I opened the restaurant at the Lincoln Tavern. I had not known him prior to the time I sold him the Dev-Lin Club. I have known defendant Mackay about a year. I think I saw him for the first time at the Bon-Air. He was sitting at the table eating dinner and he was introduced to me. I have known defendant Brown since about April this year. I did not know him at the currency exchange. I took a couple of checks in there and Miss Downey cashed them for me. I have known defendant Johnson for fifteen years, say since about 1925. We did not start in business together until 1927. I do not remember where I met him. I remember seeing him one night at the 1269 Sherman House. It was shortly after that we began negotiations which led to the opening of the Lawndale dog track in 1927. We leased the land there and we built the dog track and the stands. I invested about \$50,000 and Mr. Johnson about \$100,000. That include' our bankroll. There was \$23,000 in the plant. We operated the track about six months. We later got our money back by an arrangement with the Hawthorne dog track. We did not operate our track in 1928 nor thereafter. There wasn't business enough for two dog tracks. We had an agreement with the Hawthorne dog track.

Q. And what was this agreement?

Mr. Thompson: We object to this as improper cross-examination and as immaterial.

The Court: Overruled.

The Witness: We got a percentage from the Hawthorne.

Q. How much per week, Mr. Wait?

Mr. Thompson: We object to this as improper cross-examination.

The Court: The only thing is to show that Mr. Johnson and the witness were associated, if they were. Is that the purpose?

Mr. Plunkett: Yes.

Mr. Thompson: He testified they were.

The Court: Let us go, let us get it over.

The Witness: \$9,000 a week.

A. How long did that continue?

Mr. Thompson: We object to that as improper cross-examination.

The Court: Overruled.

Mr. Thompson: That was back in 1927 or 1928.

Mr. Plunkett: You went back to 1898.

Q. How long did those payments come to you and Mr. Johnson?

A. Through the racing season.

Q. Was this a percentage basis on which you were getting \$9,000 a week?

1270 Mr. Thompson: We object to this as improper cross-examination.

The Court: Overruled.

A. Not a percentage. It was a flat \$9,000 a week. Mr. Johnson and I were partners until our lease expired in 1931. After that Mr. Johnson and I were not partners. I was either playing poker or doing nothing.

Q. Now how long did you and Johnson continue to get that \$9,000 a week?

A. During the racing season.

Q. Well, how long was that in months?

A. Five or six months.

Q. You say that is only five or six months you got \$9,000 a week from the Hawthorne track?

A. Yes, sir.

Q. Did you get anything but that \$9,000 a week?

Mr. Thompson: I object to this as improper cross-examination.

The Court: Overruled.

A. No, sir.

Q. Well, who made the arrangements with the Hawthorne track for this \$9,000 a week?

Mr. Thompson: I object to that is improper cross-examination.

The Court: Don't you think you have spent about enough time on that?

Mr. Plunkett: All right.

From 1930 to 1935 I was occasionally in business. I had a place on the North Side for a little while, about

120 Pearson Street. I had a wheel house there and a restaurant. I was there about a year. It was either in 1931 or 1932. I don't remember from whom I leased the premises. Mr. Samuel Cole was associated with me. After

I gave up this place I did not do anything for a while except gamble. I played poker in the Morrison Hotel principally. None of these defendants were associated with me. I just chanced to locate the Dev-Lin Club. I was looking for a location and I saw this place and went in and talked to the proprietor. I negotiated for a lease and later reconditioned the place and opened up. There was an old tavern and dance hall on the premises. I built an addition to the building and I put in new furniture. I let the contract to a builder named Walters. I don't know whether Roy Love worked there. The job cost me \$5,000. I first remember Roy Love working at the Lincoln Tavern. I think I had known him before that time. A new heating plant was put in at the Dev-Lin in the fall of 1935. I did not install it and I don't know who did. I don't know just when it was installed. I was not there. I sold the place to Sommers in the fall and I don't think I was informed that the heating plant was being put in. I had a couple of wheels and crap tables and a horse book operating at the Dev-Lin. My floor man was named George Edwards. I operated for two and a half or three months from May to August. The police closed us. I was not arrested. After the Dev-Lin was closed I did not do anything for three or four months. I could not make anything out of the Dev-Lin so I sold it when I had an offer for it. Mr. Sommers bought it. I had seen him before that time but I did not know him particularly. I don't remember whether he set the price or whether I did. I know we finally agreed on a price of \$5,000 which was approximately what I had invested. I was glad to get rid of it so I let him have it. I don't think there was any memorandum of the transaction or any receipt given. I told Engstler about the sale but I don't remember when. I went to the Lincoln Tavern in the fall of 1935. I continued there until the next May. I don't know whether I sold the Dev-Lin to Sommers before or after I opened the Lincoln Tavern. I had nothing to do with the Dev-Lin after I sold it. I do not recall making a deposit of \$363 for light contract for the Dev-Lin on January 2, 1936. I never saw Government's Ex-

hibit O-244 before. My signature is not on the back of Government's Exhibit O-243. I think I was living at 6123 North Francisco in 1935 and 1936. I do not remember receiving the check, Government's Exhibit O-243. If I did receive it I would have delivered it to Mr. Sommers. I don't remember ever receiving it. O-244 was never in my possession. I do not recognize the writing "M. D." on the back of O-243 and I never saw it before. I have never cashed a check with "M. D." as the endorsement. I don't know who signed that. I have never seen Government's Exhibit O-245. I don't remember that it ever came to my address. It never belonged to me. If it had come to my address I would have given it to Mr. Sommers because he owned the Dev-Lin in 1936. I went to the Lincoln Tavern in the fall of 1935. I had been out there years before. It was vacant. There was a lot of furniture in it. It had been a night club and had the usual equipment. I leased it from the receiver. I don't remember what rent I agreed to pay. It was around \$5,000 a year. I rented it from month to month. I was going to operate a restaurant and Mr. Hartigan wanted to operate a gambling house. I do not remember where we talked this over but it was before I leased the property. I opened up the restaurant there and Mr. Hartigan opened the play room. There may have been some alterations in the building. I think Roy Love did the work. I don't know how he came to get the job. I did not get him at the House of Niles. I was never there in my life. I think Mr. Hartigan gave him his instructions about the changes that were to be made. The restaurant needed no changes. I used 1273 the equipment that was there. There was a bar and 700 or 800 chairs and some tables around there. I cleaned up the place and opened up the restaurant. Mr. Hartigan paid Mr. Love for what he did in fixing up the play room. There were 200 tables there in storage and I used those. I do not remember buying any new ones. I know almost that I did not. I operated from December, 1935, to May, 1936, and I just ran the restaurant. I served meals and liquor. A young man by the name of Atlas set up some books for me. I kept the books part of the time and I don't know who else kept them. I did not hire a bookkeeper. I knew who was keeping the books at the time but I don't remember now. Roy Love had nothing to do with my restaurant except helping out once in a

while. I did not pay him a salary. I remember bringing my books down to Agent Ruggaber. I do not recognize the signature of Roy Love on Government's Exhibit O-247. That may be part of the records I brought down to Ruggaber. Government's Exhibit O-246 looks like a report for January, 1936, of the Lincoln Tavern. That may be a report that was made by Mr. Atlas. I have not seen the reports for four or five years. I do not remember saying to Ruggaber in May that I did not know who made the reports. I may have said to him that I did not remember who kept the books. I did not say to Ruggaber that I did not know to whom the auditor's report on the restaurant was submitted. I made a profit out of the business. I think about \$1,200 after depreciation. I left the Lincoln Tavern because I leased the Villa Moderne. That was in the summer of 1936. I have been there every summer since. The operating period was usually from June 1 until September 1. I was usually idle except during these months. I did not sell the Lincoln Tavern. I just walked out of it and let Hartigan have it. I had very little investment there, maybe \$200. I know the equipment used there did not come from the Horse Shoe. I do not know that there is anything in the records showing that certain items did come from the Horse Shoe. I have not seen those records for five years. While I was at the Lincoln Tavern Hartigan paid the rent. The only investment I had made at the Lincoln Tavern was replacement of broken dishes. I had not paid Love a cent for making alterations in the place. I don't know what Government's Exhibit O-248 is. I don't recognize it as being part of the records of the Lincoln Tavern that I delivered to Agent Ruggaber. The item there, "Net worth, restaurant and bar equipment (Horse Shoe) \$500," does not refresh my recollection about anything.

Q. Do you know who typed that part of the record?

Mr. Thompson: We object to the assumption that it is part of any record.

Mr. Plunkett: We have proven what it is.

The Court: Do you expect to show it is part of the records?

Mr. Plunkett: We will.

The Court: Well, with that undertaking the objection will be overruled.

The Witness: I operated the Villa Moderne in the sum-

mer of 1937 and 1938 and 1939. I did not return any equipment from the Lincoln Tavern to anybody. Everything that was there when I came was left there with Hartigan. My signature is on Government's Exhibit O-249. I did not sign for any telephone at the Lincoln Tavern in November, 1936. I think I signed for one there in 1935. I was not there in the fall of 1936. I did not sign a telephone contract on November 12, 1936. The signature on the back of that card looks like my signature.

I don't think it is my signature on Government's 1275 Exhibit O-250, but I would not say that it is not.

I don't remember signing for telephone number Morton Grove 1810 on November 12, 1936. It is possible when I turned the restaurant over to Hartigan I went back and signed a new telephone contract for him. If I did it was only as an accommodation to Hartigan. I don't say that I did. I was called either at my home or the Villa Moderne by some member of Mr. Laemmle's party and asked to come to the Drake Hotel and deal faro bank for them. I do not remember who called me or where they called me. I took a faro bank lay-out with me and went to Mr. Laemmle's suite at the Drake. I had often gambled with Mr. Laemmle. We gambled all that night and into the next day. It was some time in May, 1936. I did not know the names of the other gentlemen who were with Mr. Laemmle. I got there about 8 or 9 o'clock in the evening and we played all night and through the next day. I do not know how much money I had with me but I had probably \$2,000 or \$3,000. When the game was over Mr. Laemmle gave me an I. O. U. for what he owed and he sent these checks, Government's Exhibits O-219 to O-227 back from California. I think the total of the I. O. U.'s was \$4,525. That was not my winnings. Two other men playing were also winners. They won \$600 or \$800. What I won would be the difference between what Mr. Laemmle lost and the others won, less my expenses. I had William Martin with me as a dealer. I do not remember what I paid him but I paid him liberally. I remember one of the men who was present was named Van Runkel. I do not know his first name. I do not remember a Mr. Ross, who was Laemmle's secretary. This game was not played at the Villa Moderne but was played at the Drake Hotel. I do not recall a telephone conversation from Ross to Laemmle while Laemmle was at the Villa Moderne. When

I received these checks from California I had them cashed one at a time as they became due. Defendant Sommers cashed most of them for me. I don't remember where 1276 I delivered the checks to him and received the cash.

He cashed them one at a time. When I received the cash I put it in my pocket and the chances are I took it to the vault. I do not remember whether I made any memorandum of this gambling transaction.

Q. When you came to make up your tax return for 1936 did you have any record of that transaction?

Mr. Thompson: We object to all this as improper cross-examination and immaterial.

The Court: Overruled.

A. I don't remember whether I did or not.

Q. Do your winnings from that transaction appear in your tax return for 1936?

A. Yes.

Government's Exhibit R-82 is my return for 1936 which was prepared by Radomski. I did not give him figures from the Laemmle transaction as a separate item. I just gave him the total of my net income for the year. I did not put on my return the words, "Various establishments, Chicago and vicinity," nor did I tell Radomski to put that on there. The item, "Net profit from business, \$7,628.87," was from gambling operations and the Lincoln Tavern restaurant. On the back of the return it appears that the item all refers to the restaurant business but that is an error. I did not tell Radomski when I gave him the information for the return that I was the manager. I do not remember ever seeing a copy of the return after he filled it in. Government's Exhibit R-81 is my return for 1935 which Brantman prepared. He had made returns for me before. That shows net profit from business, \$5,282.45. That was the year I was operating the Dev-Lin so it must represent the profits of that business. I know nothing about the items on the back of the return. 1277 I gave Mr. Brantman the figures and he was a former government employee and he ought to have known how to make out the return. I didn't. Government's Exhibit R-83 is my return for 1937 which was prepared by Radomski. The item "Miscellaneous speculations, \$7,175," was my winnings at the Villa Moderne. Government's Exhibit R-84 is my return for 1938 which I prepared. The item "Miscellaneous speculation, \$7,250," was

my winnings from the Villa Moderne. The business there was about the same in 1937 and 1938. Government's Exhibit R-85 is my return for 1939 and the item \$12,000 represents my income from the Villa Moderne. I made out the return and used the even figure. Probably it was not exactly that. The chances are it was not that much. It was not salary. I listed it on the wrong line. Mr. Johnson and I talked to Mr. Hartigan about helping out at the Bon-Air gambling room. Nothing particular was agreed on as compensation for Hartigan. I do not know whether he drew a salary. I never drew a salary at the Bon-Air. The salary of floor men at the Bon-Air was \$15 a day. I think Hartigan had an interest in the Bon-Air Catering Company which operated the gambling. I don't know whether he received any pay as floor man. He had twenty shares in the Bon-Air Catering Company and I had twenty-five. I never drew any salary in the three years I was at the Bon-Air. I do not know who was operating the Harlem Stables while Hartigan was at the Bon-Air. I never talked to Hartigan about it. Hartigan did not ask me for a job nor did I call him to come and go to work. He had an interest in the Bon-Air Catering Company. I am president of the corporation. It has no interest in the land or the buildings. Mr. Skidmore and Mr. Johnson own the land and the buildings equally. The income from the gambling went into the books with the other receipts of the catering company. I paid no 1278 attention to the books. The auditor can tell you how it was entered. The bankroll was kept in the safe until the gambling room closed up and then the profit was turned in to the catering company. Mr. Black was the auditor in charge of the books. He was given the amount to enter. The cash was in the safe and it was used to pay bills. The safe where the cash was kept was in the cashier's office. The profits from gambling in 1939 were about \$22,000. The only record kept in the gambling room from day to day was the cashier's sheets. Tickets were issued for pay-outs and money taken in at the dice tables was kept in a box and then turned in to the cashier. At the end of the day the cashier's sheet would show the results of operation. I do not know where these sheets were kept. They were filed away in the office. Either Mr. Hartigan or I would take the sheets up to the office and put them in the safe. They stayed there until we closed

up at the end of the 1939 season. Then I don't know what became of them. They have been taken out of the safe. I heard about a subpoena being issued for the production of the Bon-Air books. I don't know who ordered the supplies for the gambling room at the Bon-Air nor where they came from. We had little pencils on the golf course which bore the name "Bon-Air Country Club." I bought a supply of them from a dealer near DesPlaines. I don't know anything about pencils being bought from Conroy at 4715 Irving Park. I know Joe Conroy but I do not know his business. I knew him about fifteen years ago when he worked for me at the dog track. He was then about twenty-one years old. I have not seen him more than three or four times since. Government's Exhibit O-125 looks very much like Joseph Conroy but he was very much younger when I knew him. He was a guest at the Bon-Air once I think. I had no business transactions at 4715 Irving Park. I have never been in the building either on the first floor or the second floor. I do not know whether Conroy was in business in that building. I never knew him under the name of Morgan or Vase. The Bon-Air Catering Company cashed its checks at the Continental Illinois National Bank where it had its account. I did not handle the details. Mr. Geary handled most of the money and checks. He usually turned the checks in to the cashier. The checks from the gambling room would show up as a part of the proceeds of the catering company along with the restaurant. Mr. Hartigan okayed some checks and I okayed some. I did not watch every check so I do not know just what happened in every case. I don't know whether any Bon-Air checks were cashed at the Lawrence Avenue Currency Exchange but I don't think they were. I never took any down there nor did I ever send any down by the Downey boys. I never saw a Downey boy at the Bon-Air. I cashed at the Lawrence Avenue Currency Exchange a couple of my checks which I took in at the Villa Moderne.

Q. Why did you select those couple to take there?

A. Maybe three or four.

Mr. Thompson: We object to this as improper cross-examination.

Mr. Plunkett: It is no such thing.

Mr. Thompson: We are wasting a lot of time.

The Court: Overruled.

I had checks to cash and I took them down to the Lawrence Avenue Currency Exchange. I did not know Brown when I went in there and I don't know whether he knew me. I just went in there because I knew I could get a check cashed. There is an exchange at Devon and Western which is closer to my home. John W. Geary was cashier of Bon-Air Catering Company. He had no office in the corporation. He handled all the money. Mr. 1280 Johnson was treasurer. Mr. Hartigan and I handled the money from the gambling room. We did not turn it over to Geary. Geary's office was on the second floor. The office was used by all of us more or less. I don't think Geary made any entries in the books of the company. Neither I nor Mr. Johnson okayed the bills that Geary paid. Mr. Geary checked the cash registers at night. Roy Love was construction man at the Bon-Air. He was not an employee of the Bon-Air Catering Company. He had the Lightning Construction Company and as far as I know he was the company, doing business under that name. I don't know that John Geary had any connection with it. I know nothing of the business transactions between the Bon-Air Catering Company and the Lightning Construction Company. The architect made the contracts. I have given Roy Love money to meet his payroll quite often in 1938. I did not give him any money afterwards. I think the money I gave Love was entered on the books of the catering company in 1938. I don't know whether Love was on the payroll. I never deposited any funds in a bank account under the name "Lightning Construction Company" nor did I give Love any money for that purpose. I know nothing about a bank account out at Deerfield. I was the president of the Bon-Air Catering Company but Mr. Nadherny took care of bids for construction work. Love had no connection with the company. I don't know where Love and Geary are now. I have not seen Geary since last spring. My only interest in the corporation is the twenty-five shares issued to me. I did not pay for them. Mr. Skidmore and Mr. Johnson did. Mr. Johnson has fifty-four shares, Mr. Hartigan twenty, and Mr. Dishenger one. Mr. Hendrickson has one now and I have only twenty-four. One was issued to Hendrickson so that he could take out a liquor license.

Dishenger is dead but the share still stands in his 1281 name. Hendrickson is a watchman at the Bon-Air and I suppose he is the real owner of the share

issued to him. It is not worth very much. It is \$100 par value. There is no stock standing in Skidmore's name.

Q. Well, are any held in other names that are really his?

Mr. Thompson: We object to calling for legal conclusions, and this is improper cross-examination.

The Court: Let him answer.

The Witness: I don't know. I have stated all the shares and the names they are under.

I paid out \$25,000 of my money during the course of construction in 1938. I used it to buy glassware, china ware, silverware and kitchen utensils. I took the money from my box at the First National Bank and paid bills. I was downtown buying and I had no credit at wholesale houses and so I paid cash. Mr. Skidmore and Mr. Johnson reimbursed me for the amount I laid out. Mr. Johnson gave me the cash and he settled with Mr. Skidmore. Twenty-five thousand dollars was paid to me in currency, mostly in \$100 bills. Mr. Johnson and Mr. Skidmore were equal owners of this property and there was nothing said about the share I was to have when the improvements were started. When the corporation was formed and the stock was issued was the first time I knew what interest I was to have. I don't remember just when that was but I think around May, 1938. I do not remember who was present when the twenty-five shares were issued to me. I signed the certificates. I own the twenty-five shares which were issued to me. The twenty which were issued to Hartigan are in his name. I have known Skidmore for about thirty-five years. The first time I learned that the Bon-Air land was bought was the time Johnson and I went down to his office. I was at Skidmore's office 1282 quite often. Mr. Johnson and I stopped in there together perhaps once a week. Mr. Johnson was there almost every day. After I became connected with the operation of the Bon-Air I seldom went to Skidmore's office. I had something else to do. Our conversations at Skidmore's office were just casual and social. I don't think I ever saw any of the other defendants there. I used to see a lot of people around there. I recognized some of them—Mr. Bernstein and Mr. Alexander and Mr. Goldstein and some other people whose names I do not remember.

Q. Didn't you see a long line of bookmakers from Chicago out there in Skidmore's junk yard?

Mr. Thompson: That is improper cross-examination and immaterial.

The Court: He may answer.

The Witness: I do not know many bookmakers around Chicago. In addition to running a junk yard Skidmore was a farmer. I don't know any other business in which he was engaged.

Q. Don't you know that all the gamblers in Chicago had to pay money to Skidmore to operate?

A. I don't know that.

Mr. Thompson: I object.

The Court: Do you expect to prove that?

Mr. Thompson: Suppose he did.

The Court: Do you expect to prove it?

Mr. Plunkett: Well, if it becomes necessary.

Mr. Thompson: I move to strike the question and answer and ask that the jury be instructed to disregard any such assertions of counsel.

The Court: No, I don't think I will. The Government did not bring Mr. Skidmore into this case. Motion denied.

The Witness: I know nothing about money being paid by gamblers to Skidmore. I have known him for 1283 thirty-five or forty years and I do not remember ever seeing any of these defendants at his place other than Johnson. He was out there regularly. I don't know whether Skidmore owns the building at 4715 Irving Park Road nor whether Johnson is a partner with him in the ownership of that building.

1284 SAMUEL HARE, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 5200 Sheridan Road, Chicago. In the early part of 1937 I had some negotiations with respect to the purchase of the Bon-Air Country Club. These negotiations were with Mr. Becker, who represented the seller. I represented Mr. William Skidmore. My first conversation was at the State Bank and Trust Company in Evanston. It was around April 1937. No one else was present except Mr. Becker and myself. I asked him if he wanted to sell the property and he said that he did but would

have to get in touch with the bondholders. About two or three weeks later he called me and I went in to see him. I made him an offer of \$60,000.00. Prior to that time I had talked with William R. Skidmore about the offer. This conversation was in Mr. Skidmore's office; no one else was present. It was around the latter part of May 1937. I told Mr. Skidmore I had made an offer for that property for \$60,000.00 and that Becker had said that he didn't think it could be bought for that. Mr. Skidmore said we will let the offer stand. About two weeks later I took Mr. Goldstein to the Evanston Bank and had a conversation with Mr. Becker. Mr. Becker said that he did not think the bondholders would be willing to sell for \$60,000.00. Goldstein said that if they made up their mind to take that amount he would put the money up in escrow. I had no further part in the negotiations.

Cross-Examination by Mr. Hurley.

I am a caterer. My last place of business was at the Copeland Hotel. I was there about a year. Prior to that I had the Dellshore, which is a restaurant at Dempster and McCormick. I was there throughout the summer of 1939. Prior to that I was at Miami, Florida.

About seven years ago I operated the Dells out on Dempster Street. It was a restaurant. I had nothing to do with the gambling that was carried on there. A couple of fellows from Chicago had that concession. I do not remember who they were. I operated the Dells restaurant for about eleven years. I have known Skidmore for many years, probably twenty. I used to see Skidmore about Blum's Cigar Store on Dearborn Street. I have been out to his junk yard perhaps five times during the period I have known him. I have never been in the real estate business and I have no license as a broker. I am just a cafe man.

Examination by the Court.

I have told you all I know about the Bon-Air deal. I have told you all that was said between Mr. Skidmore and me. I have no office. My last place of business was the Dellshore, a road house at Dempster and McCormick. I was there from March to July 1939. Before that I had a restaurant and bar in the Copeland Hotel for about six

months. For probably two or three years I was out of business. Prior to being out of business I had the Dells until it burned down. I used to operate the Schiller Cafe at 31st and Forst.

REX DAVIS, who had been previously sworn, testified as follows:

Direct Examination by Mr. Thompson.

I was the painting contractor at the Bon-Air Country Club. During my work there I saw Mr. William R. Skidmore around the premises inspecting the construction that was going on. I would see him there two or three 1286 times a week. I have visited his farm known as Pine Tree. I have seen the Pine Tree Farm's trucks at the Bon-Air Country Club hauling gravel and dirt. I had a conversation with Mr. Skidmore and Mr. Johnson and Mr. Wait about the family name shields that were placed in the bar at Bon-Air. Mr. Skidmore expressed surprise that there should be three stirrups on his shield. These men all approved putting the shields on the bar-room wall. During the three months I was working at Bon-Air I saw Mr. Skidmore talk with Johnson and Wait and Nadherny.

Cross-Examination by Mr. Hurley.

I saw other people at the Bon-Air besides those I named. I do not know whether Johnson had hired the Pine Tree farm trucks and was paying for them. I do not know what the stirrups on Skidmore's shield signified, but it is a matter of record at the Newberry library. I do not know whether those stirrups had any relation to the bookmakers here in Chicago.

ROBERT GOLDBERG, who had been previously sworn, testified as follows:

Direct Examination by Mr. Thompson.

I did the electrical work at the Bon-Air Country Club in 1938 and 1939. I saw Mr. William R. Skidmore there on numerous occasions and had conversations with him pertaining to the different work we were doing there. I would see him at the Club two or three times a week

during the construction period in both years. On one occasion Mr. Wait gave me \$2500.00, which was part of \$5,000.00 that Mr. Skidmore gave Mr. Wait in my presence. Around May 12, 1938 I asked Mr. Wait for some money on our contract. He turned to Mr. Skidmore, who was standing with us on the roof and said, you 1287 will have to give me some more money and Skidmore handed Mr. Wait \$5,000 and Mr. Wait in turn gave me \$2500. That occurred on top of the pavillion at the Bon-Air. I have known William R. Johnson for twenty-five years. I know the people with whom he comes in contact in the City of Chicago. I know his general reputation in this community for truth and integrity. It is very good. I know Mr. Johnson's general reputation in this community for honesty and fair dealing and it is very good.

Cross-Examination by Mr. Hurley.

I have known Mr. Johnson for twenty-five years. I live at 6235 North Bell. I have done work for Mr. Johnson at his farm. It amounted to about \$7500, which he paid in currency. I have done work in gambling houses for the different owners. Last week I talked to Mr. Thompson about my testimony. He asked me to come in to his office and I did. When I got there there were several men there, some of whom I knew and some I did not know. I did electrical work in some of these gambling houses. I did some at the Horse-Shoe at Lawrence and Kedzie and some at 4020 West Ogden Avenue. The work at 4020 was done about eight years ago. I do not remember who made the contract. I did not talk to Johnson about the job. I certainly know something about Mr. Johnson's reputation. I never heard that he was reputed to own all of these gambling houses. I knew he gambled around these places.

S. E. DONLON, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 3065 Palmer Square, Chicago. I am a physician and surgeon and have been practicing in Chicago since 1895. I have known William R. Johnson since his birth. I know his general reputation in the community for 1288 truth, honest and fair dealing. It is good.

No Cross-Examination.

JOHN DENNISON, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 4200 Sheridan Road, Chicago and have resided in the City for seventy years. I am a Clergyman. I have known the Johnson family for seventeen years and I have known William R. Johnson very well for the last five years. I know his general reputation in the community for truth, integrity and fair dealing and it is very good.

No Cross-Examination.

MRS. KATHLEEN McCARTHY, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I now reside at 1420 Sherwin Avenue, Chicago. I have resided in Chicago since 1893. I have an art store in Evanston and have been in business for eighteen years. I have known the defendant William R. Johnson since he was born. I know his general reputation in this community for truth, honest and fair dealing and it is very good.

No Cross-Examination.

EUGENE E. JOHNSTON, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I live in Wilmette. I am in the bulk gasoline business. Our firm is Tank Car Stations, Inc. I have known the defendant William R. Johnson about eight years. I know his general reputation for truth, honesty and fair dealing and it is very good.

1289 *Cross-Examination by Mr. Hurley.*

I live at 1313 Ridge Road, Wilmette. I first met Mr. Johnson at his home on Hazel Avenue. I was at that time residing in Buffalo, New York. I am in no way related to the defendant.

ED McMAHON, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I am a farmer and I reside near Lombard, Illinois. I have known the defendant William R. Johnson about three and a half years. He farms right west of me. I know his general reputation in the community for truth, honesty and fair dealing and it is very good.

Cross-Examination by Mr. Hurley.

All I know about any other business Mr. Johnson has than farming is what I read in the newspapers lately. I never saw Mr. Johnson do any plowing on his farm.

KARIN WALSH, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 1008 South Gunderson Avenue, Oak Park and I am in the hotel business. I am at present associated with the Georgian Hotel in Evanston, the Seneca Hotel in Chicago, the Barry Apartments and other smaller ones. I was President of the Hotel Association for two terms and I am now a director. I have known William R. Johnson for fifteen years. I know the people of the community with whom he associates. I know his general reputation in Chicago for truth, honesty and fair dealing and I would say it is very good.

No Cross-Examination.

1290 WILLIAM R. THELE, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at Park Ridge, Illinois and I am now with Sprague, Warner & Company. Prior to that I was Vice President of Durand-McNeil-Horner Company. They were wholesale grocers. We did business with Bon-Air Catering Company. The first purchase was made in May 1938. Defendants' Exhibits J-7-A, B, etc. are cards from our ac-

counts receivable ledger. Those records are kept in the regular course of business and the entries made truly reflect the several transactions. The records are now in my custody as a liquidator.

Mr. Thompson: We offer the exhibits in evidence.

Cross-Examination by Mr. Hurley.

The records were made by the bookkeeping machine operators. As Vice President of Durand-McNeil-Horner Company I was in charge of the operations of the Company. I had nothing to do with taking the orders shown on the exhibits. The salesman was Mr. Schwartz. All accounts were under my supervision. This account was referred to me by the Credit Department and I passed on the credit.

Mr. Hurley: We object to these exhibits. They are immaterial.

Mr. Thompson: The only part we are offering in evidence is the name in which the account was carried.

Mr. Hurley: I am objecting to that and everything else. It does not tend to prove anything material to this lawsuit.

1291 Mr. Thompson: This evidence is much like the records offered by the prosecution, especially those of Nationwide News Service.

The Court: The objection is overruled. They may be received.

Mr. Thompson: So there will be no question about it, I offer only the name of the account. I doubt whether the pencil memorandums are proper to be in the record. Just as I have objected to similar memorandums on the Nationwide News books.

The Court: You can offer part of it. If the Government wants to offer any other part of it it may go in.

Mr. Thompson: That is the part I am offering and my offer is limited to that.

The Court: Very well.

MOE SINGER, being duly sworn, testified, as follows:

Direct Examination by Mr. Thompson.

I reside at 7957 Oglesby Avenue, Chicago. I have resided in Chicago for fifty-seven years. I am a grain broker, with offices in the Board of Trade Building. I have known the defendant William R. Johnson for twenty years. I have

seen him shoot craps. I saw him in action on a train going to Detroit to a prizefight in 1929. A crap table was set up in the baggage car. This was in July. It was the Vincent Dundee and Jackie Fields fight. My brother came to the drawing room on the train and told me a big dice game was going on. If I wanted to see a show to go in there. I went back to the car and I never saw so many people around a table and so much money changing hands. Johnson was taking all the bets. It lasted until we got to Detroit.

1292 All I could see on the table was fifty and one-hundred dollar bills. Johnson was taking all bets. I also saw Johnson shooting craps on a train going to New York to the Louis and Baer fight in 1935. A crap game was in a baggage car right off the diner. There was a large crap table in there. Johnson was taking all bets. I never saw so much money, one hundred dollar bills, fifty dollar bills and twenties. I don't know how many people were betting to Johnson in that game, ten or twelve at least. I heard the game lasted until we got to New York. I was in there about an hour and a half. I also saw Johnson shoot craps at the Congress Hotel at some sort of a carnival. I am not a crap shooter myself. I have known Johnson for twenty years and I know people with whom he associates in the City of Chicago. I know his general reputation for truth, honesty and fair dealing. It is the best.

Cross-Examination by Mr. Hurley.

I am with the Uhlman Grain Company and have been for fourteen years. I have seen Mr. Johnson around Chicago for twenty years. I once visited at his house about eleven years ago. I have seen him at sporting events. All I know about the crap game on the train going to Detroit was that Johnson was in the game taking all bets and that there was a lot of money around there. The same is true of the game on the train going to New York. I know the train we had in 1929 was a special but I do not remember whether the 1935 trip was on a special. I answered that I knew many persons with whom Johnson associates in Chicago. I did not know that he associated almost daily with William R. Skidmore. I know who Skidmore is and I know where his place of business is located.

1293 MRS. ANNA HOMAN, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 3629 North Keeler, Chicago. I am a house wife. I was at one time employed by William Goldstein as a stenographer. It was from January 1927 until January 1938. I was receptionist and general stenographer. Sometimes there was another stenographer in the office. There were six lawyers in the office at one time and when I left there were four, Isador Goldstein, William Goldstein, Clarence Shaver and William Peacock. I worked for these four lawyers. Government's Exhibits E-69 and E-70 are deeds which I signed at the request of William Goldstein. I did not know the grantee William R. Johnson when I made the deed. I do not remember ever seeing Mr. Johnson until I saw him out here in the hall today. I don't remember ever seeing him in Mr. Goldstein's office. I know nothing about who paid the money for the property conveyed by these deeds. I knew William R. Skidmore. He came into Mr. William Goldstein's office on several occasions during the period that I was working there.

No Cross-Examination.

ALBERT TATGE, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at Des Plaines. I formerly owned the property known as the Green House at the Bon-Air Country Club. I sold this property to a man named William Goldstein in April 1938. A short time later I sold William R. Skidmore some evergreens. The trees had been inspected before we agreed on the price. The trees were moved and hauled away in Pine Tree Farm's trucks. When I sold the house

there was a pool table in the basement. When I was 1294 dealing with Mr. Skidmore about the trees I told him

I would like to sell the pool table. He went into the basement with me and looked at it and we agreed on a price of \$50 and he said to leave it there. Mr. Skidmore paid me for the trees and the pool table. My signature appears on Government's Exhibits E-33-A, also my wife's

signature and William Goldstein's. That document is connected with the green house sale.

Mr. Hurley: No cross-examination. The testimony with regard to the trees and the pool tables is immaterial.

The Court: How will you connect it up.

Mr. Thompson: We shall prove that the evergreen trees were delivered to Bon-Air and the pool table stayed in the house, which is a part of Bon-Air.

The Court: Motion denied on that undertaking.

SAM ROSE, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 1117 North Dearborn Street. I am a dance producer and director of shows. I was employed at the Bon-Air Country Club as producer and director. I was there during the seasons of 1938, '39 and '40. I consulted with Mr. Skidmore and Mr. Johnson relative to the shows I produced there. I would consult them about the price of the acts. When I had Mr. Skidmore's approval I would buy it. I probably saw Mr. Skidmore forty or fifty times during the period I was at Bon Air, but I did not discuss matters with him more than a dozen times. No other persons discussed with me the price that I could pay for acts to be produced at the Bon-Air except Mr. Skidmore and Mr. Johnson. I do not know who actually paid out the money for these acts.

No Cross-Examination.

1295 HENRY M. SMITH, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside northwest of McHenry, Illinois. I am a farmer. I have been employed by William R. Skidmore as farm manager. I was with him six and a half years. His farms are known as Pine Tree Farms. He has seven farms. Construction labor that was working at Pine Tree Farms was sent down to Bon-Air Country Club in 1938 and 1939. These men hauled dirt and did cement work and carpenter work. A cement mixer and some shovels and things like that were

sent down from Pine Tree to Bon-Air. Pine Tree Farms hauled sand for the golf course. Skidmore sometimes gave me directions about sending workmen down to Bon-Air. Before Mr. Skidmore bought the evergreens from Tatge he sent me down to inspect them, and then after the trees were bought he sent his gardener down to get them. They were planted around the Pine Tree farms. There was some peat moss hauled from Pine Tree down to Bon Air, probably twenty big truck loads in 1938 and 1939.

Cross-Examination by Mr. Hurley.

I am not now working for Mr. Skidmore. We used to sell milk, butter, eggs and vegetables to Bon-Air and they were delivered from Pine Tree Farms. These products were paid for by checks signed by Mr. Johnson every two weeks. The checks would amount to a couple of hundred dollars. We also delivered milk to Niles and to Chicago. I never brought any into Chicago. I did deliver some to the Lincoln Tavern in 1937. Mr. Skidmore directed me to deliver it there. He didn't mention Hartigan or Wait or any other person. We have delivered milk to the Horse Shoe. I was never there myself. I sent it there with a truck. We delivered about twice a week, that was in 1937. We got 35c a gallon for the milk sent to Bon-Air, as high as 40c a pound for butter, different prices for eggs 1296 and 30c a pound for dressed chickens. We didn't send any chickens to the Bon-Air after 1938. The checks we got were all signed by Johnson. I have been out to Johnson's farm. I was out there quite often in 1937; sort of helped him manage the place. That was before he had hired a manager. I have never seen Skidmore at the Bon-Air, but I have seen Johnson there.

Mr. Hurley: I renew my motion to strike that testimony as to the trees.

The Court: The jury are instructed that the testimony of this witness and the preceding witness in respect to evergreen trees is stricken out, and is to be completely disregarded by the jury and held as if it had not been given.

FRED BOEYE, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at the Bon-Air Country Club. I am a greens keeper there. I've been at the Club since 1938 and it is my duty to maintain the grounds. I used to see William R. Skidmore there about once a week during the summer, and perhaps less often during construction. I only saw him when I was around the buildings. My duties were out on the grounds. The grass seed that was used on the Club property was delivered by the Lawndale scrap iron truck. I saw the same trucks haul corn from the Curran farm and also haul away an old iron water tank that was taken down. The Curran farm which adjoins the Bon-Air Country Club is operated by Mr. Skidmore. His farm manager gets gasoline at the Club to operate the trucks. The trucks bear the name, Pine Tree Farms. Soy beans is being grown on the farm this year. My crew hauled some peat moss from Skidmore's farm to the Club at his direction. I got some of the evergreen trees from the Tatge nursery and planted them around the Bon-Air Clubhouse. The trees

I got were hauled in the Club truck and the others 1297 were hauled away in the Pine Tree trucks. Before these trees were purchased, I went down there and counted them. I went at Mr. Hendrickson's direction. I have seen Mr. Skidmore and Mr. Hendrickson talk together at Bon-Air. In 1938 Pine Tree Farm trucks hauled about 250 yards of sand to the Club's golf course. The Curran farm was operated by the Pine Tree Farm crew. I do not know anything about the arrangements. I do not know whether Johnson bought the sand and gravel that was hauled over for the Bon-Air. All I know is where it came from. I do not know whether the old iron tank was sold to the Lawndale Scrap Iron Company. I have heard of Roy Love, but I do not know him. I do not know whether I have seen him at Bon-Air. I have known John Geary since 1939. I saw him around the Club. I last saw him at Bon-Air about May 1940. He handed out the pay envelopes. I have not seen him this summer. Jack Sperling has been paymaster this summer. I have seen him around here today. I do not know where Geary has been this summer.

(Proceedings out of presence of jury.)

The Court: I desire that counsel let me have your sug-

gestions in respect to instructions prior to the beginning of the argument. Any suggestions held until after the conclusion of the instructions will be denied.

Mr. Thompson: We have prepared a draft of requests for instructions but something new happens each day and we have to add requests to the draft. It is impossible for us to determine ahead of time some particular instruction that might be wanted on behalf of the defendants until after the court makes his charge to the jury.

The Court: I am talking about instructions that are deliberately held back.

Mr. Thompson: I should now like to call attention to this evidence about the evergreen trees that was stricken out.

I think it should go back in. When I stated my under-1298 taking I thought there was a larger proportion of the trees that went to Bon-Air, but I know some of them went there.

The Court: I think the fact that someone got eight trees some place is pretty thin.

Mr. Thompson: I think it is thin. I think it is just about the same thickness as nine-tenths of the Government's testimony.

ELI HERMAN, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I am a lawyer and have been a member of the Bar for fifteen years. My office is at 134 North La Salle Street and my residence at 3100 Leland Avenue. I was connected with the sale of the Dells in the Fall of 1936. I represented the owners. During the course of the negotiations I talked with Mr. William Goldstein. This was immediately prior to our entering into the escrow agreement. I also talked with William R. Skidmore at his home. Mr. Skidmore, Mr. Goldstein, Mrs. Skidmore and Mr. Sam Hare were there. We advised Mr. Skidmore that we had arrived at a price for the eight acres of the Dells property. I told him it was \$10,000, plus a fee for me in connection with the matter. He said that was all right. He asked Goldstein if he wanted the cash then and Goldstein said "no"; that he could deliver it to the Chicago Title and Trust Company the next day. We entered into the escrow agreement, which is Government's Exhibit E-35-A. It is dated November 27, 1936. Under the agreement Mr. Goldstein deposited the money

and I deposited the deeds. Government's Exhibit E-36-A is an escrow agreement entered into between Mr. Goldstein and me in connection with the purchase of the additional five acres of the Dells property. That transaction took place February 10, 1937. The first conversation relative to the purchase was with Mr. Goldstein in my office about 1299 a week or ten days before we executed the agreement.

After the agreement was signed Goldstein deposited \$9,000 and I deposited the deeds. I never saw Mr. William R. Johnson in connection with this transaction. I did not know him then. I became acquainted with him at Bon-Air later.

Cross-Examination by Mr. Hurley.

Mr. William Goldstein made both deposits of money in connection with the Dells purchase. I was representing the sellers. My signature appears on E-35-A and E-36-A and I saw Mr. Goldstein sign. The sellers were my clients. I can't recall exactly how long they had been my clients. They had just become clients of mine. They were brought to me by Mr. Sam Hare. I had known Sam Hare for quite a few years. He was a client of mine, but I can't saw exactly how long he had been at that time. I had frequented the Dells when he operated it as a night club. I had never met the defendant William R. Johnson and had never had any business dealings with him. I was in the Van Spankeren settlement because I knew Mr. Sommers and had represented him in connection with several matters. Mr. Helfand asked me to get into the matter because he thought I could arrange a settlement. I talked to Mr. Sommers about the matter and he made an offer of \$750 to settle. I communicated this to Mr. Helfand and that is all I had to do with the matter. Mr. Samuel Morris was connected with Mr. Helfand and I had some conversations with him relative to the settlement. I got acquainted with Mr. Sommers because he had a place of business right around the corner from where I live. I have known Mr. Sommers for several years. I knew defendant Johnson was a defendant in the Van Spankeren suit. I was seldom at the Horse Shoe gambling house. Perhaps I was up there once a month. I don't remember ever seeing any of these defendants up there. I knew only Mr. Sommers. I knew Elmer Johnson. I talked with him about the Van Spankeren suit. I knew he was Bill Johnson's brother, but I did not know whether 1300 he was representing Bill Johnson in that case.

FRED MEYER, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at McHenry, Illinois. I am a mason. I have been employed at the Pine Tree Farms. During the period of my employment there I did some work at Bon-Air Country Club. I ran a cement mixer. This was the same mixer which I had operated at the Pine Tree Farms. While I was working at Bon-Air I used to see Skidmore around the place once in a while. I was busy with the cement mixer and did not know what he was doing. In the Fall of 1937 I was sent down to the Dells to help tear down some old buildings there. The salvaged lumber was loaded onto Pine Tree Farms trucks.

Cross-Examination by Mr. Hurley.

I did some cement work out at Sunny Acres farm. They were fixing up a new cow barn there. I was there about a month with eight or nine other men. I knew Roy Love but he was not there. Joe Rothermel was in charge of the construction crew. We worked at Sunny Acres during July and August and we were paid by the manager once a week. We were paid in currency in a small manila envelope. Government's Exhibit O-251 is a picture of the corn crib and granary at Sunny Acres farm. I cannot tell you what O-252 is. O-253 and O-254 are pictures of the Sunny Acres farm house. O-255 is the horse barn.

EARL R. ALLEN, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 8243 Sangamon Street and my business address is 2540 West Cermak Road. I am in the Sales Department of the Sinclair Refining Company and 1301 have been for fifteen years. I have custody of the records and files of the sales office. Defendants' Exhibit J-8 is a delivery record. It is kept in the regular course of business and truly represents the transactions there recorded. This card shows the opening of the ac-

count. The group of papers marked Defendants' Exhibits J-9-A, B, etc. are delivery tickets prepared by the driver at the time of delivery. They are part of the permanent files of the office and are made in the regular course of business and truly reflect all transactions recorded.

Mr. Thompson: We offer in evidence Defendants' Exhibit J-8 and the group of documents J-9-A, B, etc.

The Witness: Discussions respecting discounts and other matters concerning this account were had with Mr. Eisen, bookkeeper for the Lawndale Scrap Iron Metal Company.

Cross-Examination by Mr. Hurley.

I have never been to 2840 Kedzie Avenue. Mr. Eisen would come to my office or talk to me over the phone. Mr. J. C. Nagles sold this account. He was a commission driver for the Company at Highland Park. He is not working for the Company now but did for about four years. He handled this account from its inception to about January of this year. The service station covered by this account was on Milwaukee Avenue, about one mile north of Wheeling, but is adjacent to the Bon-Air Country Club. I had nothing to do with making out the delivery slips. I do not know W. R. Peacock. The delivery tickets are in the driver's handwriting. There was a contract entered into in connection with this account. It was executed in 1938 by William R. Johnson, as secretary of the Bon-Air Country Club. The contract is marked Government's Exhibit X-254. The account was carried with W. R. Skidmore. We could never get Mr. Skidmore's signature to that contract, but we finally got Mr. Johnson's, as the secretary of the Bon Air Catering 1302 Company. The name W. R. Skidmore appears on the delivery tickets, though the contract shows that it was made by the Bon-Air Catering Co. It is our understanding that there was a copartnership. We got that by conversation. We didn't install the equipment at the Bon-Air Service Station. We had the advertising only. I do not know who put in the equipment. Government's Exhibit X-256, dated May 26, 1938, is a motor oil sales contract, but it never became operative. It was signed Bon-Air Gas Company, by William R. Johnson. I had nothing to do with the document except file it.

Redirect Examination by Mr. Thompson.

The contract of the Bon-Air Catering Company was included in the Lawndale Scrap Iron and Metal Company and Pine Tree Farms contract.

Examination by the Court.

There was a contract with the Lawndale and Eisen told me to include the Bon-Air in that contract. We had a certain quantity discount contract with the Lawndale and there had to be a certain gallonage in order to get the price. Eisen, the Lawndale's bookkeeper, told me it was owned by Skidmore.

Further Redirect Examination by Mr. Thompson.

The bills were mailed to Mr. Peacock at 140 North Dearborn Street. I do not know who Mr. Peacock is, nor with whom he is associated. The Mr. Eisen to whom I refer is the same person with whom I had my conferences respecting the Bon-Air contract. Defendants' Exhibit J-10 is an oil sales contract with the consumers. It is a part of our files and made in the regular course of business. Discounts were paid under this contract for deliveries made to Bon-Air. We have had the account 1303 with Lawndale Scrap Iron and Metal since 1936 and also with Mr. Skidmore's farm. When we got the Bon-Air account we just continued paying discount on gallonage deliverage over a thousand gallons a month on that contract. I discussed the matter of discounts on the Bon-Air deliveries with Mr. Eisen.

Mr. Hurley: I renew my motion to strike the testimony in respect to this contract.

The Court: Is that all the testimony you have on the subject?

Mr. Thompson: There will be another witness on the subject. We shall undertake to connect it up.

The Court: That undertaking does not mean anything as far as this court is concerned. State something definite, otherwise I must strike it out.

Mr. Thompson: The undertaking will be to show a connection on these two contracts. It has to do with proof of joint ownership of this property.

The Court: Make a definite undertaking upon it and I will let this testimony stand. If you don't I must strike it out.

Mr. Thompson: The testimony of the witness Johnson when he is produced will show the connection between the contracts. He had no dealings with this man but he does know Eisen's connection and who he was representing.

The Court: The testimony may stand. The motion may be renewed after Mr. Johnson has testified. Is Mr. Johnson going to testify?

Mr. Thompson: He is.

JOHN M. FLANAGAN, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

1304 I am one of the defendants in this case. I was born in Chicago. I graduated from grammar school. After that I worked as an office boy for President Robert T. Lincoln of the Pullman Company. I stayed there about two and a half years and then went to Omaha and worked in the Miller Hotel as a bell boy. I continued working in hotels until 1917, when I went into the army. I was overseas for about nineteen months. I was discharged in 1919 and returned to San Francisco and went back to work at the Maux Hotel as assistant manager. I left there in 1923 as manager and purchased the Wade Hotel. I sold the Wade Hotel in 1924 and returned to Chicago. In the latter part of 1924 I was engaged at the Edgewater Beach Hotel as assistant manager and I stayed there until 1926. In the summer of 1924 I worked at the Hawthorne race track. I resigned at the Edgewater Beach to return to San Francisco but my mother became ill and I did not go back. I opened a horse book at 3833 West Ogden Avenue. I stayed there until 1929 when I moved to 2141 Pulaski Road. It was Crawford at that time. In 1930 I opened a service bureau at 2135 South Crawford. I also handled a horse book at 4020 West Ogden. One must have two places to operate and move from one to the other. I continued to operate at 2141 South Crawford, now Pulaski, and 4020 West Ogden Avenue until October, 1939. I operated these places alternately. I was the proprietor and

no one was interested with me in the operation of this gambling house. I hired the employees, discharged them, directed them in their work and paid all the operating expenses. I had no obligation or agreement to divide any of the profits with any other person from my gambling business and no other person ever participated with me in the profits of this business. This applies to both 2141 and to 4020. I had no partner or business associate in the operation of these gambling houses. Mr. William R. Johnson was the owner of the real estate at both locations.

I occupied them as a tenant and I paid rent regularly 1305 down to the time I closed last Fall. The Service

Bureau which I operated at 2135 South Crawford is a little difficult to explain. It is a place where I sold service and race information. I do not remember the landlord's name, but he operated a little jewelry store downstairs. I was simply a tenant on the property and paid \$50 a month for this second floor. I was the exclusive owner of this service bureau. William R. Johnson had nothing to do with my opening the bureau and had no interest in it. When I opened it, or at any other time, I never discussed with him, or any other defendant, the matter of opening the bureau. When I opened the bureau I had four customers. I solicited these customers. The first subscribers to my service were Tom Barnes, Garrett Meade, and Frank Villim. My own place was the fourth. I charged the subscribers \$5 a day. I gave them the morning line and later the revised line. We would change the line that came from the General News Bureau and Nationwide when the price maker thought the prices were not right. A line is the prices on the horses. One horse might be two to one; another three and so on. The morning line was sent out to the subscribers about 11:30 A. M. The information came into my Bureau by a teletype machine. It is like a ticker tape in a broker's office. This tape shows the jockeys, the scratches, the prices, the description of the race and the results of the race and the mutuels. When I first opened I furnished my subscribers with two telephones, one was a two-way phone that connected my office directly with their houses. I could call them and they could call me. The other was a one-way phone over which they received a description of the races and other information. When I first opened in 1930 they didn't have amplifiers. The phone was kept open all

afternoon and the information was given to a service man in the horse books. About 1934 the one-way line terminated in amplifiers in the subscribers places. Ralph 1306 Moss would describe the races over these lines. First he would give the subscribers the morning line and then as the races progressed he would give them the results and the mutuels. He did all of the broadcasting. He was employed by me from about the time I opened until I closed. I talked with him about the service bureau before I opened it, but he was in no way interested except as an employee. He was a price maker and I paid him \$15 a day. He had devoted his life to the study of horse racing. He knew the horses and the racing conditions and he could fix the prices for the different horses. In making the prices on the different horses he took into consideration their past performances, the condition of the track, the jockeys that were riding, etc. After the morning line would come in from the General News Bureau he might change the prices. He might think a four to one from the General News Bureau was high and he might cut that horse to three to one. He would readjust the prices as he thought best. Over the one-way wire he would give the race results, the mutuels and other sporting news. This was broadcast in all of the subscribers rooms simultaneously. I served during the period that I operated this Bureau a total of twenty-two houses, but the largest number I ever had at one time was fifteen. At first I got my information through the General News Bureau and later through the Nationwide which took over General about 1934. Over the two-way phone bets were laid off. That occurred when a bookmaker had more on a horse than he cared to handle. Then he may lay off a part of the bet to someone else. I took these layoff bets. I also took the daily doubles off the hands of my subscribers. I also tipped off the subscribers when someone was in trouble with the authorities. A daily double is a separate pool at a race track. You must pick the winner of the first race and of the second race. These daily double transactions are closed before the first race starts. It is a tough gamble for one room handling a few daily 1307 doubles. There is no limit to what a daily double may pay. I accepted these daily doubles from my various subscribers on condition that they gave all of them to me. If you handle a lot of combinations on daily doubles

the risk is reduced. I had a \$500 limit on them. At the end of the day I would call the different subscribers and check up with them. After that they would send over a package to me which contained the duplicate sheets showing the layoffs and the daily doubles and also containing the hard sheet. The package and its contents marked Defendants' Exhibits F-4-A, B, etc. is such a package and was delivered to me. F-4-B is a hard sheet which contains the horses' names, jockeys, prices and mutuels and the daily double prices. When this card is received it is blank except for the names of the different race tracks and the names of the horses entered in each race. Formerly the cards also carried the numbers of the horses but since the Nationwide went out of business, they are now numbered after the cards are delivered. The horses are numbered by giving the first horse in the first race at the first track number 1. After all of the horses in that race are numbered the top horse in the second race is given the succeeding number and so on through the card. F-4-C is a sample of a daily double sheet. The straight lines are 50¢ bets. The figure 1 represents a dollar bet and other figures represent the amount of the bet. Each subscribers had a number. F-4-D is a sample layoff sheet. On the first line is horse No. 404 and the bet is \$5 to win. On the second line is horse number 213 and the bet is \$5 to win and \$5 to place. Either Moss or I would accept the packages that were sent over after the races were concluded. They would arrive about 6:30 or 7 o'clock in the evening. Along with this package 1308 would come an envelope containing money. If I won a subscriber would send over what he owed me. If the subscriber won I would give the messenger an envelope which he took back to the subscriber. The service charge of \$5 a day was paid by adding it to the amount that the subscriber owed, or deducting it from the amount I owed him. It was settled in cash along with the other transactions. Government's Exhibit O-1 shows the location of my first office at 2135 South Crawford at the point where the Government's witness first placed the yellow-headed button. The first subscribers served were at 4020 Ogden Avenue, at Lawrence and Kedzie, at 2500 Sawyer and at Irving and Cicero. I kept adding stations as I got new subscribers. The subscribers were not continuous, some would be on and others would be off. Mr. Moss was

always employed in my Service Bureau and if I got busy I would bring over some help from my place at 4020 Ogden. In August, 1938 I moved my Service Bureau to Irving Park and Cicero. Defendants' Exhibit F-5 is an engineer's plat that was given to me at the time I installed my equipment at Irving and Cicero. The rectangle appearing in the upper left hand corner of this exhibit, as well as F-5-A, which is an enlargement, is the key cabinet located in my office. The telephone lines going into this cabinet were operated with keys. The cabinet was so hooked up that I could give simultaneous service to all my customers over the one-way lines. At that time there was a line to the Dev-Lin at Devon and Lincoln which went through the Niles Center Exchange. There was a line to 4721 North Kedzie and to 3946 School Street which went through the Irving Park Exchange. There was a line to 1205 North Dearborn which went through the Superior Exchange. There was a line to 5725 Lake Park and to 6245 Cottage Grove which went through the Hyde Park Exchange. There was a line to 2133 South Kedzie, 1309 2141 South Pulaski and 4020 West Ogden which went through the Lawndale Exchange. There was a line to 400 South DesPlaines and 7212 Circle which went through the Oak Park Exchange. The Horse-Shoe was at 4721 North Kedzie, the Casino at 4715 Irving Park and the Southland at 6245 Cottage Grove. I paid for all of the telephone connections between my office and the subscribers establishments. No one else made any contribution to this investment. Frank Vase is the name which I used with the Telephone Company. I began to use that name when I started in the gambling business in 1927 at 3833 West Ogden Avenue. When I opened that place it was vacant, but it had been a horse book. There were two telephones there under the name of Frank Vase and I just continued to use the name. The Service Bureau at 2135 South Crawford and later at Irving and Cicero was always carried under the name of Frank Vase. No person by that name was ever in any way interested in the business. I changed the telephone service from the name Frank Vase to my own name at 4020 West Ogden in 1939, but I didn't change the name of the Service Bureau. Government's Exhibit O-126-A is the slip that shows the change. I signed the white slip but it shows only one telephone number. At that time I changed two telephones,

Rockwell 5900 and 5901, to Crawford 1066 and 1067. I do not understand about the yellow card attached. I had nothing to do with making out that card. I only signed the white one. In 1938 the State's Attorney chopped up my place at 2141 South Pulaski and had my telephones removed and I was never able to get them back. The phones were there in the name of Vase, as they were at 4020 West Ogden, and that had something to do with my making the change. The establishments at 2133 Kedzie, 2135 Pulaski and 4020 Ogden were all served over 1310 one telephone line to save mileage. The installation was paid for by the mile. There was only one line from the Service Bureau and then a separate line out to each establishment. The line went through the Lawndale Exchange, but there were no operators involved. Defendants' Exhibit F-6 is a diagram of the first floor of the building at Irving and Cicero. It correctly shows the entrances to the building at the time I moved my service bureau to that location. The entrance used to reach the service bureau was 4707 Irving Park. You went to the second floor and then you went completely around the building to reach the office. Defendants' Exhibit F-7 is a diagram of the second floor. After you went up the stairs from the entrance at 4707 you made a right turn and went to the end of the hall and then a left turn to the end of the hall and then another left turn to the doorway, which was the entrance to the office. My office occupied the large rectangular space in the lower left hand corner of the plat marked F-7. There was no way to go directly from the casino on the first floor, which is indicated on F-6, to my offices on the second floor, which are indicated on F-7. 4715 Irving Park was an entrance to the Casino on the first floor. There was also an entrance at 3971 Milwaukee Avenue. You couldn't reach my office through either of these entrances. There was an entrance at 3765 Milwaukee through which my office could be entered by a back stairway, but we always kept that entrance locked. The offices on the Irving Park side of the second floor, entered through 4707, were occupied by a dentist and a dancing school. The other offices on the Milwaukee side were all vacant while I was there. The only use I made of 4715 Irving Park was to receive my mail at that number.

There was no mail box at 4707. The packages containing the hard cards and duplicate sheets were delivered to me or Mr. Moss in the lobby at 4707

Irving Park. I never had in my employ any person by the name of Morgan. I never received any of the supplies that Mr. O'Neil testified he delivered to a Morgan at 3971 Milwaukee. I do not know the Mr. Morgan to whom Mr. O'Neil was making these deliveries. I purchased goods from Mr. O'Neil but they were delivered at 4020 West Ogden by Mr. O'Neil to me. There was a Mr. Conroy who made his headquarters at my service bureau, but he had no interest in my business. He was a bookmaker and came to my office to get layoff bets. When he took a layoff bet it was his business and I had no interest in it. There was no partnership arrangement between us. Mr. Conroy made some of the arrangements for my telephone service. I know Roy Love and he did some carpenter work for me at 4020 West Ogden. I hired him and I paid him. Later he did some work for me at 2141 South Crawford. I think he sent some men to do some work at Irving and Milwaukee, but I do not think he was there. During the time that I was at 4707 Irving Park, Ralph Moss and Donald Peterson were employed in my office. There was no one employed there named Roy. I have known the Mr. Lenz who testified ever since I have been in business. He was the manager of the General News Bureau when I went in the gambling house business. I never had a teletype machine at 2141 South Crawford. The first one I installed was at 2135. Mr. Lenz testified that he had met me two or three times, but he has met me at least two or three dozen times. We were always having arguments over rates for service. After General News was taken over by Nationwide James Regan was the manager. Lenz was never manager of Nationwide. He continued to work in the business but in no official capacity and I had no dealings with him after Nationwide took over

General News. Lenz never met William R. Johnson 1312 at 4003 Ogden Avenue because I never was at that address. The only meeting that I can ever remember having with Lenz and Johnson was at 4020 Ogden. I do not remember much about it but Lenz was arguing with me about a rate and Johnson came in while the argument was going on. I never made an appointment with Lenz to meet Johnson to discuss rates. Johnson had no interest in the rates that I had with General News. My rate varied from \$75 to \$260 a week. I never paid as much as \$400 a week for services. I was up to the offices of Nationwide many times after it took over General News. My business

there was always an argument over rates. William R. Johnson was never at the offices of Nationwide with me. When I went up there I had my discussions with James Regan. I never saw the customers account books of General News or of Nationwide prior to this trial and I know nothing about what was entered in those books. Before this trial I never knew the witness Schumacker and I do not remember that he was ever in my place of business and I do not recollect having any conversation with him. I know Canfield who testified. He used to work for me at 4020 and he did some work at the office at 2135. I do not recall that John J. Hays ever worked for me. Mr. Creighton, Mr. Mackay and Mr. Hartigan never worked for me at 4020 Ogden to my knowledge. They were never employed by me at any place at any time. My business was small. In the afternoon I had horses, black jack and one crap game. In the evenings I had chuck-a-luck and a wheel and the black jack and crap game continued. I had only one crap table. I had a box man at the crap table and a manager of the book. I was in direct charge of my gambling house. I never had a floor man. A box 1313 man took care of the side games and the manager of the book took care of the horses. There was never a robbery at 4020 and Mr. Johnson never came in after a robbery had taken place as Hays testified. I was never employed at the Lincoln Tavern and I have never drawn a cent anywhere as a salary since I left the Edgewater Beach Hotel. I never told Hays to report at Kedzie and Lawrence as he testified. I was never in any way connected with the Dev-Lin and had no part in its management, as the witness Cobb testified. Brantman made out my income tax returns and I told him that my business was gambling. I never told him that my income was derived from salary or bonus. He said that there was no specification in the Revenue Act about income from gambling and that he would take care of it. I went to his office and he asked me some questions and put the information down on a piece of paper and then I signed a blank return and he would figure out the amount of the tax and I would give him the money to pay it. I heard Malkowski of the currency exchange testify that Mr. Couch introduced me to him. Couch was my doorman and I took him down to the currency exchange and introduced him so that he could get checks cashed. When I was closed up in town

I had no place to move in the country and so I would get my bankroll changed into hundred dollar bills. When I reopened I would change the hundred dollar bills into working money. I do not think I ever cashed enough checks at one time to get hundred dollar bills. I used hundred dollar bills in my business to pay off those who won more than a hundred dollars. I never supplied any bookmakers or customers from my Service Bureau. William R. Johnson never had any interest in my business. I had no knowledge of income tax returns that he was filing. I never had a conversation with him respecting his income tax returns, nor with him respecting my income tax returns. I never paid Mr. Johnson any part of 1314 the returns from my various businesses other than paying him rent for his buildings. He had no interest in my gambling houses, nor in my Service Bureau. I never had any conversation with any of the other defendants respecting their income tax returns. I didn't know whether the other defendants were filing income tax returns, nor did I know anything else about their business. None of the other defendants had any connection with my Service Bureau except as customers.

Mr. Thompson: We offer in evidence as an illustration the package which is Defendants' Exhibit F-4-A, B, etc., the telephone chart F-5 and the enlargement F-5-A and the plats F-6 and F-7.

Cross-Examination by Mr. Plunkett.

Defendants' Exhibits F-4, B, C, D and E are just samples. I made them up two or three days ago. They were not actual sheets made up at the time of transactions. I got the hard sheet off of a bookmaker Jimmie McGlory. The date is on the sheet. I got it perhaps three weeks ago. I had sheets similar to these when I was in business. You had to have those to operate. I do not have any of them now. I keep them a few days and then destroy them. Sheets similar to F-4-C and F-4-D were delivered to me by my subscribers at 4707 Irving Park, along with the hard sheet. I ran a horse book at 4020 Ogden Avenue and my sheet writer kept sheets of every bet that was made. They were kept in duplicate. F-4-C and F-4-D are not duplicates. They represent an entirely different transaction,—a transaction with the manager of the book. Whoever was making the

lay-off bet would write out the lay-off sheet which was sent over to me. At the Horse-Shoe that would be Eddie Gates, the manager of the book. I will explain how a lay-off bet is made. Take first race at Detroit, the horses are 1315 numbered 601 to 613. Let us pick 609, which is a 20 to 1 horse. The book manager may choose to lay-off \$10. He takes a pad and writes down number 609 and after that he puts down \$5. to place. He lays off \$5 of the bet with me. Every bookmaker in Chicago has the same hard cards. He could not operate without them. He refers to that card to get the horse that he is betting on. He takes up the sheets that the sheet writers have written and he sees that the betting is heavy on say number 404. He looks at the hard card and finds that this is a 15 to 1 horse. He does not want to risk that much money, so he decides how much he wants to lay-off. He picks up the phone and calls me and says he wants to lay-off that horse \$10 or \$15, or whatever it is. The man that makes the lay-off proposition to me is the manager of the horse book. I have before me identically the same sheet as he has. At the end of two or three days I burned up the duplicate sheets that were sent to me at my office. Either Moss or Conroy or I would take them down to the furnace and burn them. I kept my record of wins and losses in a little book. I took these figures from the sheets. I kept my customers' accounts. The rate was \$5 a day and this was paid every day. I paid for my book at 4020 Ogden and charged myself \$5 to help maintain the office. \$5 was actually sent from the 4020 Club to the Irving Park office. I had an office on the second floor at 4707 Irving Park. I never heard that office referred to as a clearing house. I call it the office. That name distinguished it from my office at 4020 Ogden. Whatever cash I received at the office each day was put in my pocket. If I had losses I sent the money back to the winner by his messenger. When the messenger brought me the sheets I had them checked with the manager or owner of the book with whom I was doing business and I knew how much I owed him or how much he owed me. To illustrate, take the Horse-Shoe. At the 1316 end of the day when the races were over I or Ralph Moss picked up the phone and called off our business with them. We would check our sheets and if there was a mistake it would be rectified. After that the subscriber's sheets would be wrapped up with his hard sheet and sent over to me by a messenger. If I owed him money the en-

velope would be made up when he arrived. By the time I had finished my conversation with Eddie Gates at the Horse-Shoe our business would be straightened out. If he owed me \$40, which included the \$5 service fee, he would send it over in an envelope. If he had won I would deduct the \$5 service fee and send the balance to him. Gates would send over the money he owed me and the sheets and the hard card. When it was delivered to me I did not issue a receipt. I had the duplicate sheets sent over for my protection. The subscribers' sheets and my sheets corresponded. When the subscribers' sheets were sent over it protected me from my employees writing a bet down on me. Whatever money I won I put in my pocket. We would finish our work at night by 7:30 or 8 o'clock. I didn't audit the sheets of the regular sheet writers at the different places. I had sheet writers at 4020 and they kept their sheets in duplicate. When a sheet is filled the manager of the book takes the sheet and the money and checks it. The original sheet and the money is turned in to the cashier. The cashier cannot write in a bet because it would appear on the original but would not appear on the duplicate. Having the sheets written in duplicate served only as a protection. At the end of the day the manager can take the sheets, either the duplicate or the original, and find out how much has been won and lost. The sheets are kept in the safe for a while and then they are destroyed. I have none of the sheets that 1317 were used in the operation of the handbook at the 4020 Club. I have been out of business for over a year. I usually kept the sheets at 4020 for about a week. I have none of the pay-out slips which were issued by the floor man. I have none of cashier sheets that were used in connection with the side games. They were simply working sheets. They have been burned up. I have my Social Security records. They are at home. They contain a record of all my employees. I am not willing to bring them down here because there is going to be another case. Defendant Johnson is the owner of the property at 4020 Ogden Avenue and at 2141 South Pulaski. I do not know who owns the property at 4707 Irving Park. I rented from the lady in the vault, who is the agent of the building. After Mr. Johnson purchased 4020 Ogden and fixed it up I rented from him as a move spot. I had been renting 2141 South Crawford from him. 4020 had been a garage. Mr. Johnson closed off the big door and made a new entrance and I put

in the counters and other things on the inside. I was looking for a new location when I discovered 4020 was vacant. I found out that Mr. Johnson owned it and I rented from him. It is not always easy to find a location for a gambling house. You must keep away from schools, churches and business houses. 4020 was empty when I found it. There hadn't been a gambling house in there. It is an old garage. I knew Bill Johnson when I rented this place from him. Prior to making inquiry I did not know that he owned 4020. I agreed to pay him \$250 a month. At that time I was operating at 2141 South Crawford in a building I was leasing from him. I was looking for a place and found this one vacant and sought out the owner and rented it. I had been operating in that locality in at least fifteen different places, rented from fifteen different landlords. When I first located 2141 I didn't have the slightest idea who owned 1318 it. Prior to locating the spot I had no conversation with Mr. Johnson about it. I think I rented 4020 in 1931. As near as I can recollect I sought out Mr. Johnson and told him I would like to rent the place and we agreed on the terms. It was a long time ago and I do not remember the exact conversation. I told him I wanted to use it for a gambling house; in fact, every landlord in Lawndale knew what I used a building for. Mr. Johnson gambled at 4020 around 1937. He shot craps head to head with big John Murphy. The house had no interest in the play. That is the only occasion that I recall that Johnson gambled at 4020. He never gambled at 2141. I paid \$250 rental at 2141. I was maintaining both establishments, 4020 and 2141 at the same time. I was also running the Service Bureau at 2135 South Crawford. I was paying rent on three different places. I do not believe I have any of the rent receipts. I am not a tenant in any of these places now. I gave them up in October 1939 when I went out of business entirely. When Nationwide was put out of business they put me out of business as far as service was concerned. So far as the side games are concerned, the location at 4020 and 2141 have petered out. The only conversation I had with defendant Johnson at the time I quit business was to tell him I was no longer his tenant. I never had a lease. I suppose Johnson gave me rent receipts. I don't remember. A receipt was not necessary. I kept a day to day record of my expenses where I wrote down my ins and outs. I think I met defendant Johnson the first year that I came home

from California, 1924. I met him with Bill Tennes at a party at the Congress Hotel. There were quite a few Western men there, including the owner of the old Tiajuana race track, whom I knew very well. They were here for the

Hawthorne meeting. At that time I knew no other 1319 members of the Johnson family. I now know his

brothers, Elmer and Joe. I had a Joseph Johnson working for me at the race track and at 4020 Ogden. He was no relation to defendant Johnson. He was Swedish. I think my brother Bernard Flanagan worked in a gambling house at 53rd and Lake Park. I do not know of any other place where he worked. Government's Exhibit O-125 is a photograph of Joe Conroy. He is the one who laid out some of my telephone service. He would figure out changes in the key cabinets. That is about the only service he rendered me. He was an old telephone man. The Telephone Company's engineers figured out the lay-out with him. He did the negotiating for me. I never knew that he used the name Morgan when he dealt with the Telephone Company. He was dealing strictly for me and was in no way involved. I did not pay him for his services. He did these things in return for me giving him space in my office. He would take lay-off bets at my office. He was the only one who had that privilege there. The lay-offs with my office were not confined to my subscribers. I also laid off with Les Brunneman on North Broadway. He took some of my lay-offs and I took some of his. That is the only one I can think of at the present time. My lay-off business was done with my subscribers, with Conroy and with Brunneman and some others, but I cannot recall their names right now. They were all in Chicago. The arrangements for lay-off bets were made over the phone. All the lay-off business was conducted in my name. The name Frank Vase used on my telephone contract was signed by Ralph Moss or Joe Conroy or me. It was the name I more or less inherited with my first telephones. The phones were either at 3841, 3640 or 3833 West Ogden Avenue. Those were among the first places I had. When I installed the Service Bureau at 2135 South Crawford I had been using the name Frank Vase for two 1320 or three years. I do not know any person by the name of Frank Vase, nor do I know Frank Vassasak. In addition to using Frank Vase on telephone contracts I may have bought some things in that name, but I do not recall it. I have also used the name Hirer in connection with an elec-

tric light contract at 4020. I do not know any person by that name. I do not recall using any other name. I did some lay-off business outside of Chicago. I think it was in 1932. I did business direct with the Tanforan race track. I had a wire running directly from my key cabinet to the long lines building of the telephone company. I had this line so that I could call long distance without putting a call through the local operator. I used to call Tanforan race track every day during the race meet there. I do not recall any long distance calls in 1938 or 1939. I do not think I had the long line hooked up with my cabinet at that time. I am not sure about 1937. If you have the records I should like to see them. I would not want to say without looking at the record. I have no recollection independent of the record. I have a definite recollection about using the long distance to Tanforan every day during the meet, but I do not recall, offhand, any other long distance business. I do not recall any other business transactions with persons in other cities during the time that I was operating this office. In addition to buying dice from E. M. O'Neil I also bought lay-outs and other gambling equipment. I do not recall ever buying anything from O'Neil which was delivered at 4707 Irving Park or 3971 Milwaukee. A stairway ran down from my office at 3965 Milwaukee. 3971 Milwaukee was an entrance to the Casino on the first floor. We never used 1321 the stairway from 3965 Milwaukee to my office on the second floor. Both doors were locked and I had a key to them. In my business you try to keep your place as secretive as possible. No one but me could use the stairway entrance at 3965. When you entered at 4707 Irving Park you had to go upstairs and then walk down three corridors to reach my office. That was more private than coming up the back stairway. There are swinging doors in the corridor before you reach the office. There was no light which flashed when some one passed through the swinging doors. I did not have any light inside my office that flashed. You had to pass through two doors to get to the office. There was some space between the doors. Both doors were locked at all times. The only way a person could get into the office was to telephone and have me meet them at the entrance at 4707 Irving Park. The janitor did not have a key to the office and he could come in only after Mr. Moss came down in the morning. I did not spend all my afternoons at the office, but I spent some part of every afternoon there. I

had no set rule about the time of arriving and leaving. I didn't get there in time for the morning line. Sometimes I was there by the time the first race was run. It was not necessary for me to be there at any definite time. After the races were over I would leave and go to the west side. My book manager was in charge of the book at 4020 West Ogden while I was at the office and the box man was in charge of the side games. There was only one crap game and one black jack game. I also had a cashier who was on duty while I was away. For every cent that was cashed out at the crap table a ticket was written. If it was a black jack that was cashed out there would be an "X" underneath it. The tickets showed for themselves what was going on while I was away.

1322 Ralph Moss was in charge of the office when I was over at 4020 Ogden. Donald Peterson also worked up there. Tommy Canfield worked for me while I was at 2141 South Crawford. Each of my subscribers had a number. The reason for giving each place a number was so that we could ring them from the office. When one of the subscribers wanted to call us they picked up their phone and a light flashed. Some of the subscribers were on the same line and so we had to have a number to identify who was calling. When we answered he would announce his number. The 4020 Club was number 8. I think the Horse Shoe was number 5. The numbers changed quite frequently. Sometimes I talked with the subscribers and sometimes it was Peterson. Conroy may have answered occasionally if he was sitting there doing nothing. If it was a wager offered, he would ask me whether I wanted say \$5 on number 6. Then I would answer. Conroy spent most of his afternoons in the office. He made his living as a bookmaker. He came up there from 1932 to 1939. I first met him at 2141. He told me that he was a phone man and a bookmaker and he asked me for an opportunity. During the time he was around the office from 1932 to 1939 I did not know whether he had any other business. I do not think I have seen Conroy since last March. I have not seen him within the last week or so. I do not know where he lives. I do not recall ever having had occasion to call him on the telephone at his home. I do not recall any other person who worked at the office. I don't know any man by the name of Morgan. I found a location in the Irving Park building after looking for months. It is very difficult to find a suitable place for such an office. In

looking around I discovered that there was a horse book in the building and I asked Moss to see what he could find out about the place. I knew defendant Mackay was running the horse book there, but I did not ask him anything about moving my office there. Moss found out about the vacant space on the second floor of the building. When I found out there was a handbook in the building I naturally assumed that they might allow an office like mine to be located there. After Moss checked over the place I went and looked it over. Moss arranged to rent the office. I agreed to pay \$50 a month and it was paid to the vault keeper downstairs. I did not know William Goldstein had anything to do with the building and I never saw him in connection with it. I leased this office in the name of Frank Bates. I notice there has been an erasure on the back of Government's Exhibit O-256-A. The bottom signature is mine. I don't know the name Frank Morgan that appears above my signature. I am looking at a check made to one Frank Morgan, for \$240, dated March 7, 1938. I do not have the slightest recollection of that check. I know the maker J. J. Dugan. He is a bookmaker at Devon and Broadway. I have had some transactions with him. I made some bets with him in 1936. I may have had one or two transactions in 1938, but I doubt it. Our transactions were lay-offs. I do not recall this check. All of my transactions with Dugan were horse bets. They would be made over the telephone. I do not know Frank Morgan whose name appears on this check. I have received checks payable to Frank Vase which came from the Telephone Company. I do not recall any other checks and if you have any I should like to look at them. I might have got some checks from Forest Park made payable to Frank Vase. If I did, either I or Ralph Moss endorsed them. If I got such checks I was undoubtedly doing business under that name with those persons. I first met defendant Creighton at the Hawthorne race track in 1924 and I have seen him a lot of times since then at different places. I met Jimmie Hartigan when I first went out to the west side around 1928 or '29 and I have seen him quite often since then. I believe my first meeting with Mr. Sommers was when Tom Barnes died. That is quite a while ago, but as I remember it, he took over where Barnes left off. I met defendant Mackay when he took over the Casino from Garrett Meade, I believe, early in 1937. Garrett Meade was one of my first

customers. Frank Villim has worked for me since he was a customer. He has been working for me since 1932 whenever I was open. He deals black jack and craps. I never met defendant Brown until he was indicted with me in this case. I had never heard of him prior to this indictment. I never had a penny's worth of business transactions with him. I was not in his currency exchange and I never met anybody there. I did not know Brown at the Ogden National Bank. I did business with the Bank back ten years ago, but did not know that he was assistant cashier there. In operating a horsebook, when a sheet writer takes a bet he gives the patron a ticket. If a patron wins he surrenders the ticket to the cashier. There are no duplicate tickets kept when the originals are issued. My office at Irving Park and Cicero was furnished with a large table down the center of the large room, which had a key cabinet at each end. There were four regular exchange telephones on the table. In the little side room was the broadcasting service and the teletype. The broadcaster would read the information from the teletype tape. There was no filing cabinet in the office. The duplicate sheets were kept piled on the large table. There was no other furniture in the room except chairs. Lincoln Tavern was on Dempster Road, in Morton Grove.

It would be approximately where you are placing the 1325 tack on the map. I had wire service in there for Mr.

Hartigan. Except for a week or ten days that Mr. Sommers was there, all my transactions at the Lincoln Tavern were with Mr. Hartigan. I arranged with the Telephone Company for the service. I also furnished service to the Casino downstairs. There was the one-way line and the two-way line. The pins on Government's Exhibit O-1 show the approximate locations of places that I served at different times. I think the pin at the top of the map shows the location of the Everglades which was operated by George Turner. He operated a book but I do not know what else, because I was never there. I have known him for years and I think he came to 4020 to arrange for his service. The premises at 4020 are about 50 x 80 feet and at 2141 are about 25 x 125. 4020 was occupied exclusively by my gambling room. 2141 had a cigar store in front which operated only when the gambling room was operated. Government's Exhibits R-44 to R-49 are my income tax returns. The early ones were prepared by Brantman and the later ones by Radomski. I do not remember why I made the

change. The 1937 return reports "miscellaneous income". I told Radomski my business was gambling and that characterization was put down there without my authority. The same is true of using the word "speculator" in my 1930 return. In 1939 the accountant put down gambling. Any time I filed I told Brantman or Radomski that I was a gambler and this time it was so stated. In 1939 I reported \$4800. I gave Radomski my figure from my little account book. It showed the monthly summaries of my profits. I added those up and they came to \$4800. I do not know where the little book is. It was my custom when I was closed to change my small bills into one hundred dollar bills and then when I opened again I would change the one hundred dollar bills back to smaller bills. I always made this exchange at the Lawndale Currency Exchange. I do not recall any specific date when this exchange was made. In 1939 I was closed on two different occasions. I cannot recall whether when I opened I changed any \$100 bills into smaller bills, but I believe I did. I have not been able to recall anything about the J. J. Dugan check you asked about yesterday. Dugan was not one of my subscribers. I have no recollection of the transaction represented by that check. I never authorized anybody to use the name of Morgan in writing checks for me. Curley Couch was my outside door man and handy man. He ran errands for me, cashed checks, exchanged currency, etc. He had nothing to do with the Service Bureau. If I got checks there I might give them to him to cash. I had some transactions with A. H. Rott. I think it was lay-off business. He was running a book in Forest Park. Government's Exhibits O-256-B to I are checks made out to Frank Vase and endorsed by Frank Vase, but I do not recall the check O-256-G which appears to be made out to Frank Morgan and endorsed by Frank Morgan. I know nothing about it. The signature of Albert Couch is on O-256-C, D, E and H. I do not know that Couch was working for anyone but me during that period. His endorsement on those checks would indicate that they came from the office, but I would not swear to it. Ralph Moss might have endorsed the name Frank Vase on the checks but I do not recognize the writing as his. It was my practice to endorse checks given in my gambling rooms. Government's Exhibits X-257-3 to 10 are checks which bear my endorsement. X-257-1 bears no endorsement, but it was cashed at the A. A. Electric Supply

Company. Occasionally I cashed a check there. X-257-2 bears Couch's signature. I have not been able to recall any

Morgan who was in any way connected with my places 1327 of business. 4020 was never referred to as the "House of Morgan" and I never had any equipment delivered there under that name. I know the Edward Don Company which sells janitors' supplies and I have bought supplies there. I do not believe I ever bought 25 pounds of cheese cloth. I never bought it in the name of Morgan Stationery, nor do I know who could have done so. No one else was in business at 4020 Ogden but myself. I had no account with the Edward Don Company. I paid for everything in cash. I do not know how many transactions I had with them in 1939. I bought most of my supplies in the neighborhood.

Redirect Examination by Mr. Thompson.

I paid rent to Mr. Johnson regularly for the properties at 4020 West Ogden and 2141 South Crawford. I paid him \$600 a month for the two places through the year when I occupied them.

Recross Examination by Mr. Plunkett.

There is no record to substantiate these payments.

WILLIAM R. JOHNSON, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at 4224 Hazel Avenue, Chicago, and at Lombard, Illinois. I have lived at 4224 Hazel Avenue since 1923 and at Lombard since the Spring of 1937. My mother resides with me. I have lived in Chicago since birth and am 45 years old. I know all of the defendants and I know some of the gambling houses that have been named during the course of this trial. I know the Horse-Shoe, but I have never had any interest in it and have never received any of the profits from its operation. I know the Casino, but have no interest in it and have never received any of the profits from it. I know the Dev-Lin, but I never have had any interest in it, nor ever received any of the profits from it. The same as to the Lincoln Tavern and as to

Harlem Stables and the House of Niles. I know the D and D Club. It is located in property which I own. I have never had any interest in the Club and have never received any profits of the Club except rent paid for the space occupied. I know the Villa Moderne but have never had any interest in it. I know the 4020 Club and I own the real estate where it is operated. Other than receiving the rent due me I never received any of the profits from the operation of this Club. Mr. Flanagan paid me rent regularly and I always reported it on my income tax return as such. Rent for the D and D Club was paid to Mr. Tavalin and it was always reported on my return. I know the Southland Club but I have never had any interest in it and have never received any profits from it. I know the Club Western which occupies the premises at 9730 South Western Avenue, but I have had no financial interest in that Club and no relation with it except as half owner of the real estate. I know nothing about the Select Club or the Mayfair Club or the Northland Club, or the Club Proviso, or the 4011 Club. I never had any interest in any of them and do not know where they are located. I never heard of a gambling house located at 4825 Pulaski. I have heard about the Lake Park Club but was never in it and had no interest in it. I never heard of the Harlem Club. I have heard of the Club at 119th and Vincennes, but I never had any interest in it and have never received any income from it. I may have been there but I am not sure. I do not know anything about the 406 Club or one at 3332 North Milwaukee Avenue or at 3946 School and have never had any connection with or interest in 1329 any such Clubs. I knew there was a Club at 2133 South Kedzie but I never had any interest in it. I know nothing about a Club at 3209 West Ogden, nor one at DesPlaines and Madison in Forest Park. I own real estate at 2141 South Crawford. Mr. Flanagan rented that property from me and has always paid the rent and the rent has been regularly returned in my income tax reports as such. I have never had any financial interest in any gambling Club operated by any of the defendants. I have never been in partnership with any of them and had no proprietary relations with any of their places of business. Not one of these defendants has ever shared with me any of the profits of a gambling establishment operated by him. I have never exercised, or undertaken to exercise, any direction in the operation of their gambling establishments, nor any au-

thority over any employee of theirs. I have never hired any one to work at any establishment operated by any of these defendants, nor have I ever discharged any employee of any such establishment and I had nothing to do with the opening of the Service Bureau at 2135 South Crawford Avenue and do not know when it was established.

Mr. Thompson: I think your Honor has not ruled on my offer of the Flanagan Exhibits,—the package, maps and charts.

Mr. Plunkett: We haven't any objection to the charts.

Mr. Hurley: The package is immaterial.

Mr. Thompson: There were so many witnesses testified about packages being delivered before.

The Court: The charts may be received and the package may be received as illustrative of the witness's testimony.

Mr. Thompson: That is the only purpose of the offer.

1330 *Further Direct Examination of Mr. Johnson.*

I was never in the Service Bureau at 2135 South Crawford, never had any financial interest in it, never made any arrangements with any customers and never received any service from it. I was never in the head offices of the Nationwide News Service, nor those of its predecessor and I never made any arrangements with respect to the rate charged for Flanagan's Service Bureau. I know Mr. Ragen who was the General Manager of Nationwide before it went out of business. I was never in his office having a conversation with him or with the witness Lenz or with any one else concerning Mr. Flanagan's service. I met Lenz one evening at the 4020 Club. It was a number of years ago, probably around 1935. I happened to be in there one evening and I saw Lenz and Flanagan talking. I had known Lenz a long time and went over to shake hands with him. He and Flanagan were arguing about rates and I remarked "Why don't you fellows try to get along." Lenz said "What have you got to do with this," and I says "After all, he is a tenant of mine." That's about all I remember about the conversation. I do not know just what service they were talking about, but I knew that Flanagan had the same service that all bookmakers have. I do not recall ever talking to Lenz before or after that on the subject of service. I did not have the conversation related by Lenz as having occurred

at the general offices of Nationwide when Flanagan and I were present. I know nothing about the books and records of Nationwide, nor how their accounts were kept, nor in whose names they were kept, nor what charges were made, nor what entries appear. I never had a contract of any character with Nationwide News Service, nor with its predecessor, General News. I never had an account with either of those concerns. I never paid them anything 1331 or contracted to pay them anything for any service of any kind. I had no connection with the Lawrence Avenue Currency Exchange. I have known defendant Brown for a number of years. I knew him when he was at the Ogden National Bank. I had no talk with Brown about obtaining this currency exchange and I was never in his place of business and never had any transactions there. I was never in the Albany Park Bank Building where this exchange was located. Mr. Brown never discussed with me at any time anything concerning the operation of this exchange during the time it was in operation, nor did he discuss with me anything about closing the exchange. I know nothing about the books and records of the exchange and nothing about what has become of them. I never had any interest in any checks that were cashed at the exchange, nor in any currency that was exchanged there. I believe it is nine or ten years since I had seen Mr. Brown before we were indicted. I do not believe I had seen him between the time the Ogden National Bank closed, around 1931, and the time we were brought together in court this Spring. I saw the witness Schumacker on the stand, but I do not remember ever having seen him before. I never fired him back in 1930 and I never rehired him in 1938. The conversations he related never took place. I remember the witness Cieslik. He came up to me at Harlem Stables and asked whether I would help get him a job and I introduced him to Mr. Riley and afterwards I saw him working. I remember the witness Didier, but I never put him to work at the House of Niles, or anywhere else. He was the mayor's brother and was always annoying me. I probably spoke for him with some of the defendants, but I never sent him anywhere and I never put him to work. I never fixed his pay or his hours at work, or his duties, and had nothing to do with directing him. Especially back in the depres- 1332 sion years, men were frequently asking me to help them get jobs. Probably one hundred fifty or two hun-

dred times I interceded for men out of work. I remember Greenberg, who used to be a starter at the Morrison Hotel. He got out of a job and I introduced him to Mr. Creighton and he went to work. I had nothing to do with hiring him except to introduce him to Mr. Creighton. I had nothing to do with fixing his pay or his hours, or his duties. I do not know the witness Schultz, but he may have seen me around the Lincoln Tavern in 1936. I remember the witness Cusack. I had known him for a number of years. He was out of work back in 1934 or '35 and approached me one night at the 4020 Club and asked me to help get him a job. I spoke to Flanagan and Flanagan said that he didn't have a place then, but would get in touch with him at the first opportunity. I remember the witness Weeks. He approached me at the D and D Club and asked for a job and I referred him to Kelly and Mr. Kelly hired him. I had nothing else to do with hiring him and I did not fix his pay or his hours or his duties. I think I later helped him get a job at the Harlem Stables. I heard Russel and Glenn Glave testify. I never had any dealings with them and never paid them any money and never furnished anyone else with money to pay to them. I was at the Harlem Stables one night when they walked in and began arguing with Earl Jackson. I did not know who they were. Later I drove with my brother and others over to the home of Mr. Sass, where a conference was held to settle their dispute. I sat in the living room and had no part in the conference. I had no financial interest in Harlem Stables, or in the settlement of these claims. I had not known Mr. Jackson prior to this time and had no interest in his business or in his settlement with the Glaves. I hadn't known until I heard this 1333 argument that the Glaves ever had any interest in Harlem Stables. I heard the witness Hayes testify, but I do not remember ever having seen him before. The robbery that he mentioned at 4020 Ogden never took place. I remember the witness Atlas, who testified about installing the accounting system at Lincoln Tavern. My only connection with the matter was to tell him that Mr. Wait was the proprietor in response to an inquiry from him. I had nothing further to do with the matter. I didn't employ him and he never reported to me. I remember the witness Kehoe. I never assigned him to work at the cigar store at Kedzie and Leland, nor any place else. I never told him at the Dev-Lin that I would give him \$10 a week to live

on. The conversations he related never took place. I have no recollection of Mr. Coote, who testified, or of ever talking with him. I think I did meet Mr. Lebbin in front of the Horse-Shoe and he came up and I introduced him to Mr. Sommers as he testified. He was a friend of John Horan's and I think Horan arranged for him to meet me at the Horse-Shoe. This was a very usual occurrence. I have no recollection of Mr. Masury, who said that he came to me with a letter from Alderman Bowler. I have no recollection of Mr. Leonard who said that he had to have a political endorsement to keep his job at the Casino. I do not remember ever seeing the witness Early until he appeared on the stand. I know the man Cobb who testified. He was a peculiar old man, who was full of conversation. He no doubt saw me around the Horse-Shoe. The occurrence he related at the House of Niles never took place. I did not say to him "I don't see why they pick on me. I am not a politician. I am running gambling houses," nor did I say to him, "I am run to death with job seekers from Kelly, Courtney, Nash, and Arvey, and all of the rest of the men in public office." I never carried on any such conversation. I was never in the little storeroom on Kedzie where Love 1334 had his carpenter shop in the rear and Cobb never saw me there, as he stated. Cobb may have come up to me at the D and D Club, after Mr. Sommers fired him for stealing, and talked to me about getting him a job, but I do not recall any such conversation. If this conversation ever took place, I did nothing about it. I have known the witness Wolfson for twelve or more years and I helped him get a job at the Horse-Shoe in 1939. I helped the witness Singer get a job at the Horse-Shoe in 1936. He was a newsboy at Madison and Dearborn and at different times asked me if I would help him get a job. As to all the witnesses who testified that I put them to work, the extent of my action in the matter was to intercede for them. I had nothing to do with hiring them or directing their work. The conversation related by Brantman to the effect that I took him down to the Horse-Shoe and introduced Sommers, saying, "Meet my man Sommers," did not take place. I did not introduce Sommers to Brantman and I have never referred to him as my man. I never told Brantman at any time to explain to Sommers the Government was making a drive for returns from those engaged in illegal business. In 1932 I had been filing income tax returns on gambling

ains for twelve years. I never said to Brantman at any time that my name was not to appear on a return as the employer of any other person. I did not take Creighton down to Brantman's office and introduce him, nor did I ever say to Brantman to take care of Creighton. I never said to Brantman that I did not want to keep bank accounts because I did not want to supply evidence against myself. I never gave Wadsinski and Kolarik any money to settle their claims against the Graves. I remember the testimony of Miss F. Maun, but I never saw the woman before she came on the witness stand. I never had a conversation with her about the limit of black and red at the Horse-Shoe. Miss Koop and Mr. Brandt were mistaken when they said they had seen me in the Lawrence Avenue Currency Exchange. I own a one-half interest in the Dells property, 1335 erty. I made no arrangements with Goldstein to purchase this property. I learned from Mr. Skidmore that the property was for sale and I paid to him one-half of the costs of the property sometime in the Spring of 1937. Defendants' Exhibit J-3 is in the handwriting of Mr. Skidmore and is a memorandum of costs given to me by him at the time of my settlement with him on the Dells property purchase. I first paid Mr. Skidmore \$10,000 and later I paid him \$1,057.95. I own one-half of the property at 9730 South Western Avenue. I contributed about \$17,500 to the purchase of this land and the building of the improvement. I do not own the Albany Park Bank Building or any part of it, and I did not employ Goldstein to buy the property for me and never gave him any money to make the purchase and no deed was ever delivered to me by him. I know nothing about the ownership of this property. I own one-half of the Bon-Air Country Club property. The first I knew about the purchase of the property was in December 1937. I did not arrange with Goldstein in September 1937, or at any other time, to negotiate for the purchase of the property. I never gave Goldstein any money to pay for the property. I learned about the purchase in the latter part of December 1937 in Mr. Skidmore's office, when Mr. Wait was present. Mr. Skidmore told us that he had purchased the Bon-Air and he asked Mr. Wait and me to go out and take a look at it. We went out somewhere around the middle of January 1938. Up to that time I had paid no part of the purchase price. When I first visited the property it was in charge of Buck Hendrickson, whom I had

seen previously and Mr. Skidmore's office. When I first saw the property in January 1938 it was in bad shape. Mr. Skidmore had talked to me about what he intended to do about the property and asked me whether I would be interested. I told him I would and we discussed what changes we should make. The property was not large enough 1336 for our purposes. I had no interest in the Bon-Air property prior to this conversation in January 1938 and never had any interest in any gambling house or any other business that had been conducted in the property. Later the properties known as the greenhouse, the white house, the gas station and the Curran farm were acquired as part of the Bon-Air Country Club, and I later contributed my part of the purchase price. I did my business with Mr. Skidmore. I did not furnish Goldstein with any money at any time to make deposits as he testified. After we acquired the property there were some improvements made in 1938, but we delayed making large expenditures until the period of redemption had expired. Mr. Skidmore and I contributed equally to the purchase price of the property and to the payment of the expenditures for improvements and operation. We organized the corporation and made Mr. Wait president of it. I understood it was necessary to have a corporation in order to get a liquor license in the county. We gave one share to Frank Dishinger, who was a resident of the county. I understood only a resident could get a license. A lease was made with the operating company under which Skidmore and I were to receive 15% of the operating profits as rent. The balance of the profits were to be distributed, 25% to Mr. Wait, 20% to Mr. Hartigan and 55% to Mr. Skidmore and me. There were never any profits and so neither Mr. Wait nor Mr. Hartigan never received any. Mr. Wait worked at the Club during the 1938-39 and '40 seasons. Mr. Hartigan was there in 1939 when gambling was in operation. The gambling room was operated by the Bon-Air Catering Company. The Defendants' Exhibit J-11 is a certificate of title to a pick-up truck owned by the Bon-Air Country Club. The signature thereon is that of William R. Skidmore, who is my partner out there. Defendants' Exhibit J-12 is a certificate of title on a dump truck owned by Bon-Air Country Club and it bears the signature of the same W. R. Skidmore. 1337 When I bought the Lincoln Park Building at Division and Dearborn I paid \$7500 for the interests of the

other equity owners and I paid \$22,000 for the outstanding \$30,000 notes which I did not then own. When Mr. Skidmore and I bought the service station property adjoining the Bon-Air he said that he would make arrangements with Sinclair to equip the station and supply it with gas and oil, so that we would receive a discount on our purchases. Thereafter all transactions with Sinclair were handled from Mr. Skidmore's office. I had nothing to do with the arrangements except signing the contract which was brought out to Bon-Air. I did not furnish Mr. Goldstein the \$10,000 for deposit in connection with Government's Exhibit E-39. I know nothing about that contract of purchase and do not know to what land it refers. I did not furnish Mr. Goldstein the \$7500 deposited under the contract with the State Bank and Trust Company of Evanston and I know nothing about that transaction, nor to what land it refers. From the time I became interested in the Bon-Air Country Club to the end of 1939 I had contributed a total of \$365,000, less a credit of half of twenty-two thousand and some odd dollars toward the purchase of the property, the improvement of the property and the operation of the Club. As the bills came in during the period of construction in 1938 Mr. Skidmore and I furnished the money to pay them. Sometimes I would be ahead of him and sometimes he would be ahead of me. In 1939 funds for meeting expenses of construction and operation were provided in the same manner. The \$37,000 loan to Mr. Skidmore, which was outstanding at the time of my statement of March 27, 1939 was made sometime around the first of March 1939 and was repaid during the summer of that year. I recall making a statement on March 27, 1939 to Mr. Riley Campbell, Mr. L. H. Wilson and Mr. F. J. Clifford. There was the question, "Do you operate a gambling table such as dice, or blackjack, 1338 or roulette," to which I answered "Yes." The question "And get all of the winnings, or a part of them?" and I answered "Yes and no; sometimes all of them, sometimes part of them." I desire to say in explanation of that answer that if I were playing and a man bet \$100 or \$200 and the owner wanted to take \$20 or \$40 of that bet, he was at liberty to take it. He would put down whatever amount of money he wanted to bet, and so I would not receive all of the winnings on that play. That bet would be decided immediately after the play,

whichever way it was; win or lose. If a player was betting \$100 and the owner wanted to take \$20 of it he would lay down his \$20 and I would lay down \$80. If the player lost the owner would take \$40 and I would take \$160. When I took over a table I banked the whole game. During the course of the examination I was asked, "Have you ever had any business transactions with him" meaning William R. Skidmore, and I answered "No" and I desire to explain that answer. The examination was about gambling houses and I did not know at that time that there was any other subject under discussion. Among other questions I was asked, "Tell us the places where you gambled in 1937. Name some of them," and it appears that I answered "Division and Dearborn, Lawrence and Kedzie, 63d and Cottage Grove, Ogden and Crawford. That is my own gambling houses." I desire to explain that answer. When they mentioned Ogden and Crawford I said those were my buildings. I did not say they were my gambling houses. Ogden and Crawford was not the name of one house such as Dearborn and Division. There were two different houses, 2141 South Crawford and 4020 West Ogden. The punctuation in the answer should indicate that there were two houses and not one. In the statement there is this question: "Now you stated a while ago that you sometimes would take a piece of the play from these individuals. What do you mean by that? That is correct, isn't it. Didn't you state that you would sometimes take a piece of the play from those individuals?" and there appears the answer "Yes." Then there appears the question "Tell us what you mean by that." And then there appears the answer "I would take part of their gamble. If the gamble was too high for them I would take a piece of it." and then there appears the question: "On a percentage basis?" And then the answer "Yes." I desire to explain those answers to those questions. I was then talking about the same thing I had talked about before. If a player was betting \$100 and the owner wanted to cover \$40 of it, I would take the balance of the bet. Therefore the owner took 40% of it, that is what I meant. There also appears in the statement this question: "Well, when you make such an arrangement, what percentage of the profit do you retain for yourself?" And this answer, "It varies." And then this question, "Give us the range of percentages."

And then this answer, "Whatever amount of money they want to put up governs the percentage of the winnings they take." The answers to those questions means the same as I stated. If an owner comes in with \$20 on a hundred dollar bet, I would have 80% of the bet and he would have 20% of it. Such transactions were rare, but they did take place quite a few times. In comparison with the number of times I have played, they were rare. There also appears in the statement the question: "Then you make the arrangements with them whereby you agree to back the game?" And the answer "Right." Then the question: "Then when the game is over, do they report back to you as to the results?" And the answer, "Yes, or I am right there when the gambling is going on." I was never out of the gambling house while I had a table. I never left it in charge of somebody else except to step over to the lunch counter and get a bite to eat, or something like that. Then the box man and the dealers would keep the game going. I never left the gambling house and left a game in progress. There also appears in 1340 the statement the question: "During 1937 did you sustain any losses?" And the answer "No," and the question, "Every game you played in, you won?" And the answer "Yes." Those answers are not accurate if they refer to a particular play. What I meant by those answers was that when the month is over, or the year is over, I am always the winner. I have always filed profits from my gambling. This has been for many, many years. I remember a conference some time in November, 1939, with Agents Sommers and Clifford. I think Mr. Converse and Mr. Wait were present. The conference lasted quite a while, maybe an hour, or more. There were many things discussed during that conference, particularly the Bon-Air Catering Company. I was asked why the real estate did not appear on the Company's books, and I told them that the Company did not own the real estate. They also discussed 9730 South Western Avenue. I did not tell the agents that I was the sole owner of that property. I said I was part owner. I did not tell them that I was sole owner of the Bon-Air Country Club. I told them that I was part owner. In 1931 I owned certain securities which were thereafter sold and for which I received cash between January 1, 1932 and December 31, 1939. One was a mortgage for \$20,000. That was paid. And another was Chi-

cago Joint Stock Land Bank for \$5,000, which was partly paid. The \$20,000 mortgage was owed by a Mr. Judd. I acquired it in 1928 and it has been paid in full. It was paid off in installments, which included principal and interest. The principal was paid as follows: In 1933 \$83.51; in 1934 \$515.91; in 1935 \$1,576.18; in 1936 \$4,966.37; in 1937 \$3,448.71; in 1938 \$8,381.10 and in 1939 \$1,028.22. The interest received annually was reported on my income tax returns. The Joint Stock Land Bank went into receivership prior to 1931 and since then dividends have been paid, reducing my principal claim. In 1934 \$1500 was paid; in 1935 \$1500; in 1936 \$500; in 1937 \$125; in 1938 \$125 and in 1939 \$150., or a total of \$3900. There was also the Horner mortgage for \$12,000, which was paid in six annual installments of \$2,000 each from 1933 to 1938. I remember a conversation with Agent Wilson some time in 1934 relating to my 1931 return. During the course of that conversation there was a discussion of an item of \$78,000. Such an item appeared on my 1931 return and I told Mr. Wilson that was from gambling. He asked me what I did with the money and I told him I kept probably \$10,000 of it in my pocket and the balance in my box. I did not tell Mr. Wilson that the \$68,000 that I said was in the box was the only cash that was in my box. It was not the only cash I had there at that time. I must have had between one hundred forty and one hundred fifty thousand dollars besides that. I have been filing income tax returns since shortly after the war. I do not recall the first year, but it might have been 1920 or 1921, or even 1919. I have always tried to file a true return of my income ever since the first one I filed. I have never intentionally filed a false return for the purpose of evading payment of the proper amount of income tax. I have never discussed the matter of filing my income tax returns with any other defendant in this case. To my knowledge no defendant had any knowledge whatever of my income tax returns and I had none of theirs. I never discussed with any defendant the method of filing returns or anything else with respect to returns. The Curran farm purchase, on which deposits of \$60,000 and \$3800 were made, is a part of the Bon-Air purchase and my Bon-Air investment includes my part of that purchase. The property has been farmed by Mr. Skidmore

since we owned it. He is farming it this year with a crew from the Pine Tree farms.

1342 Mr. Thompson: We offer in evidence Defendants' Exhibits J-3, J-11, J-12, J-8, J-9-A, B, etc. and J-10. We mark the Sunny Acres Farm account books, which are here in Court, Defendants' Exhibits J-13, 14, 15 and 16, but do not offer them.

Cross-Examination by Mr. Hurley.

I know Joseph Conroy and have for probably twenty years. Defendants' Exhibit O-125 looks like his picture. He is a cousin of mine. He lives at 550 Roscoe Street, Chicago, in a building owned by my mother. I have held title to the property but I never received the income from it. It is a twelve-apartment building. I last saw Joe Conroy at the Bon-Air some time this summer. I have never been associated with Conroy in business. He worked for me at the Lawndale Kennel Club back in 1927, but hasn't worked for me since. I do not know what his business is. I heard he was booking horses. I haven't seen Conroy any place except the Bon-Air during the past summer. Our family and the Conroy family visit. I think Conroy was at my farm once in 1937 or '38. I got Exhibits J-11 and J-12 at the Bon-Air Country Club. I originally got them from Mr. Skidmore about the time of their date. His signature appears on the reverse side of the documents to the assignment of title. These documents have been in the files since we bought the trucks. They are part of the files of the Country Club and not of the Catering Company. As distinguished from the Bon-Air Catering Company, which is just an operating company, the Country Club consists of the ownership of the land and buildings and fixtures. Mr. Skidmore and I laid out all of the money for the Country Club and the Catering Company.

The Trucks belonged to Mr. Skidmore and me. The 1343 Catering Company had nothing to do with them. I have seen the Bon-Air Catering Company's books which you showed me. This is the second time I have seen them. There were some books of the Country Club, but I could not find them when I went to look for them. They were left at the Club. I know there were some receipted bills and some books. After I was indicted this Spring I looked for them. There was a book which had

notations in it regarding the moneys that were expended. It was a white book with black corners, something on the order of the one in front of me. I think John W. Geary, also called Bud, made the entries. He acted in the capacity of a cashier at the Club in 1938 and 1939. I think Roy Love originally hired Geary. I don't believe I knew him prior to 1938. I had seen him around but I was not acquainted with him. I found out later that he had worked in some of the gambling houses. He is no relation of mine by marriage. He worked for Roy Love, who was the Lightning Construction Company. Mr. Skidmore and I used to turn over money to Love and Geary would pay the bills for Love. Some times we turned over money to Geary. Love would present his payroll and we would furnish the money to meet it. Most of the time we gave the money to Geary and he would pay the bills that Love approved. Geary was working for the Bon-Air when we turned this money over to him to pay construction bills. Love worked on construction for Mr. Skidmore and me in 1938 and during the summer he was on the Catering Company's payroll part of the time. I have known Love since 1936. I think I met him at the Lincoln Tavern. I had seen him before that around Tom Barnes' place at Kedzie and Lawrence. He was a builder and handy man. It was common knowledge that Skidmore had a half interest in the Bon-Air Country Club. The first time I told anyone that was in 1938. I told several people, Joe Spagat for one. I do not know how many people I told Skidmore owned half the property because it would not come about just that way. Before I made a decision on a contract I would tell the other party that I would have to consult Mr. Skidmore. Bud Geary and Roy Love were others that I told Skidmore owned half. They were employees. Employees would be the only persons I would have occasion to tell about ownership. I was never asked by a Government agent whether Skidmore was interested. I was questioned about the Bon-Air Catering Company and about the ownership of the real estate, but no other names were ever asked or discussed. I did not mention the fact that Skidmore had a half interest in the Bon-Air property. Today is not the first time I have told anyone of Skidmore's interest. I am trying to recall other people to whom I mentioned Skidmore's interest. Sam Rose, the producer, was another. He is another employee. He got

orders from Mr. Skidmore. I can't recall any other persons. It was common knowledge that Mr. Skidmore owned half of the Bon-Air. When the agents were asking me whether I had had any business transactions with Mr. Skidmore I thought they were talking about gambling. The only other transaction I mentioned was the loan of \$37,000. I made to him. I told them nothing about the Bon-Air deal. I did not call the loan a business transaction. I was asked if I owed Mr. Skidmore any money and if he owed me money and I said yes, he owed me \$37,000. There was nothing said about the Bon-Air and I did not tell anything about it. My telling about Skidmore owning a half interest in the Bon-Air was not a matter of feeling whether I should tell about it because I was being asked questions and I was answering them. That wasn't ever asked. The Bon-Air was not even brought up at that 1345 time. During that interview I was not asked about my properties. The questions in the statement are the questions that were asked and I answered them. When they asked the question whether I had any business transactions with Skidmore I thought they were referring to gambling. I was asked that question. But I understood them to say gambling transactions. Whether I had any gambling transactions with Skidmore is what I understood the question to be. All they talked about was gambling. I talked with Agent Sommers about the Bon-Air. Mr. Clifford and Mr. Converse were there. I am trying to recall just how that subject came up. If I remember correctly, Mr. Clifford said to me that the Bon-Air land was not listed in the Bon-Air Catering Company's books and I told him that the land did not belong to the Catering Company. There was something said about ownership of the land and I said I was a part owner, if I recall correctly. There was nothing more said about it. They did not ask me who owned the other part. I did not tell them that Skidmore owned half of the property and I was not asked. If they had asked me who owned the other half I would have said Skidmore. The title to the land stands in my name. When the deeds were delivered to me I signed a quit claim deed back to William R. Skidmore for a one-half interest. I do not know whether that deed has been put of record. I did not record the deeds which put the title in my name. I understood the records showed all of the title in my name, but I have never investigated

the records. I had nothing to do with buying the property or with recording the deeds. When the deeds were delivered to me by Mr. Goldstein I signed a quit claim deed conveying a one-half interest to William R. Skidmore. When Goldstein delivered the deeds to me I did not pay any attention to them. I just took the deeds and 1346 that is all there was to it. Mr. Skidmore asked me to take title to the property. Evidently he did not want the title in his name. He told me that he was going to put the property in my name and I could see no harm in it at that time. I do not know whether Mr. Skidmore's name appeared in the Bon-Air Catering Company's books. This is the second time I have even seen the books. I never looked in one of them. I think I told Mr. Wait that all moneys advanced were to be credited to my account and that Mr. Skidmore's name was not to appear on the books. Mr. Skidmore did not tell me why he did not want his name on the books. I was treasurer of the Corporation and as such had custody of the funds. The books reflect the financial transactions of the Corporation. I hold of record 55 shares of the stock and I actually own 27½. The certificate issued to me was for 54 shares. Mr. Hartigan has a certificate for 20 shares and Mr. Wait a certificate for 24 shares. I never instructed anybody not to put Skidmore's name on the books. It did not come up that way. When the money was laid out I told Mr. Wait to charge the money to me and that Mr. Skidmore and I would settle between ourselves. It was not intended that the construction items should go on the Catering Company's books. That was a mistake. When the auditors were working on the books in 1939 they asked me whether the construction items belonged on the books and I told them to take them off. These items belonged in the construction book which was out at the Bon-Air the last time I saw it. I do not know where that book is. I went out there looking for it and I could not find it. The last time I looked for the book was when the subpoena was issued for the Bon-Air books. That construction book 1347 should show how much was spent at the Country Club in 1939. I do not remember how much was spent on the property in 1939. I know how much was spent in 1938 and 1939. I do not know whether the books you have show any construction entries for 1939. This is the second time I ever saw those books. I think John

Geary made the entries in the Country Club's construction book, but I never saw him make one. What bills came in for construction he used to lay them out on the desk for Mr. Skidmore and me and say so much would be necessary to pay the bills. That is the only way I have of telling about who kept the books. After the bills were paid I imagine the Country Club's books showed the figures. That book and the receipted bills are what I could not find. They should show what was spent at Bon-Air in 1939. The only record of what was spent would be the receipted bills in that construction book and I don't know whether the book alone would show it. I know nothing about books. I do not know what became of the receipted bills. They were left at the Club and I could not find them when I looked for them. I think I mentioned to Geary at the opening of the season in 1940 that I could not find these records. I had not seen him since until a week ago Sunday, when he came out to my farm. I did not talk to him about the books at that time. I told him to go see my lawyer. Later I saw him in Judge Thompson's office. He has not been up there every day since to my knowledge. I saw him up there once a few days ago, but I did not talk to him. He was talking to me about the case out at the farm and wanted to know if he could be of any assistance and I told him to go in and talk to my lawyer. I did not ask him anything about the books nor the receipted bills. I do not know whether that country club book had Skidmore's name in it. I do not know anything about any books.

1348 We knew how much we had to pay as we went along.

As the bills came in we put up the money. That is the way we handled it. We laid out the money that was needed, ten or fifteen thousand dollars at a time. I usually carry that much around with me. I have known Skidmore for about twenty years. I think I first met him at Lake and Robey. The first investment I ever made with Skidmore was the Dells property. I cannot say how often I saw Skidmore during the twenty years that I knew him. After I started buying property with him, I would say that I met him a couple of times a week, maybe oftener. I would see him at his office, or at the Bon-Air. I went to his office a couple of times a week, maybe three at most. He has a scrap metal business on Kedzie Avenue. I do not know how long he has been in that business, nor do I know what other business he has. He was in the saloon

business before he was in the junk business. I had no special business at his office except to drop in on my way in from the farm. It was only about six blocks out of the way. In 1935 I do not remember how often I would be at Skidmore's office, but I did go there. I would just drop by and pass the time of day. Sometimes there would be other persons there. I do not recall right now who they were. Of the defendants I have seen Mr. Wait there. Sometimes he was there when he did not go with me. When he would come in, we three would visit. Sometimes I would see two or three or four people there. I was never there at night. It is possible I have been there when there were more than three or four people present. I know some of the men who work around the junk yard. I know Skidmore's partner Bernstein. I know Orrie Alexander and Sam Sandusky. I have met Doc Williams. I don't know what business he has there. To my knowledge he is not the one who regulates the callers who can go in to see Skidmore.

1349 Q. You have never seen a line-up out there and Doc Williams say "Next" and take them right in?

A. I have not.

Q. You have not seen that line-up of bookmakers out there, and gamblers.

A. No, sir.

Mr. Thompson: We except to the statement of counsel and object to his question.

The Court: Objection sustained.

Mr. Thompson: We move to strike the question from the record.

The Court: Do you expect to show that the bookmakers and gamblers line up in Mr. Skidmore's office.

Mr. Hurley: We can if necessary.

Mr. Thompson: We except to that statement. The Court asked him a question and he did not answer. He makes a statement to which we except.

The Court: I think I will overrule the objection.

Mr. Hurley: Did you know that Skidmore was collecting from persons engaged in gambling in Chicago?

A. No, sir, not to my knowledge.

Q. He never told you that?

A. No, sir, he did not.

Q. You were quite close to him, Mr. Johnson?

A. I know him pretty well, yes.

We own some real estate together and the Bon-Air

Country Club. I have known Mr. Skidmore for twenty years and we have been friends. I visited at his office and I met him on other occasions. There was gambling at the Bon-Air in 1939. We had craps, wheels, 21 and hazard.

Q. And did you discuss with Skidmore the nature of protection out there in Lake County, so that you could operate this gambling room?

A. There was no protection, we just opened up.
1350 Q. Who was the sheriff out there in 1939 at the time you were operating this gambling room?

Mr. Thompson: We object to that as improper cross examination and it is immaterial.

The Court: Overruled.

The Witness: Kennedy I believe. I am not sure.

Q. Did you talk to the sheriff about the gambling that was being carried on in the Bon-Air?

A. No, sir, I did not.

Q. Did you and Skidmore talk about this Waukegan Post?

A. No, sir.

Q. Who owns that?

A. That I don't know.

Mr. Thompson: We object to this as improper cross examination, and it is immaterial.

The Court: Overruled.

I do not own any part of it. I have subscribed to it at the request of Mr. Goldstein. I do not know whether he is the owner. I never talked to Mr. Skidmore about the Waukegan Post. I never saw Doc Williams taking subscriptions to that paper out at Skidmore's office, nor anywhere else. I do not know whether that newspaper started about the time the Bon-Air was opened. I do not know when the Waukegan Post started. It was Hartigan's duty to act as floorman in the gambling room at the Bon Air. When Mr. Skidmore and I built the Club it was decided to give Mr. Wait and Mr. Hartigan an interest. Mr. Wait was to take care of the catering end and Mr. Hartigan the gambling end. There was no gambling out there in 1938. There was a gambling room upstairs, but that was not the room that was used for gambling in 1939. The gambling room was not operated upstairs in 1938. I do not know just how much time Hartigan spent in the gambling room at Bon-Air in 1939. I would stop in at the

Club practically every day or night. Sometimes I
1351 would see Hartigan and sometimes I would not. If

Mr. Hartigan was not present Mr. Wait was in charge of the gambling room. Mr. Wait was superior to Mr. Hartigan. I guess you would say that Mr. Hartigan was Mr. Wait's assistant. For this work Mr. Hartigan got twenty shares of stock in the Bon-Air Catering Company. This stock was issued right after the Company was formed in June 1938. The first time I talked with Skidmore about the Bon-Air was in the latter part of December, 1937 in his office. Mr. Wait was there with us. Mr. Skidmore told us that he had purchased the Bon-Air. I had not talked with him about the property before that. That was the first information that I had that I was to be a partner with Skidmore in the Bon-Air. I do not know when the property first got the name of Bon-Air. It had the name when we bought it. On the day that Skidmore told me and Mr. Wait that he had bought the Bon-Air I did not know that I was going to have an interest in it. I had no understanding with him on that day.

Q. Why didn't you open this gambling room at the Bon-Air in 1938.

Mr. Thompson: I object to that as improper cross examination and immaterial.

The Court: Overruled.

A. That I don't know.

Q. Did you discuss the opening of the gambling room with Skidmore?

A. Yes, I did.

Q. What did you say in this discussion about opening the gambling room in 1938?

Mr. Thompson: We object to that as improper cross-examination and immaterial.

The Court: Overruled.

1352 A. I don't recall.

Q. How did you determine to open the gambling room in 1939?

A. We just opened it, that is all.

Q. Had no talks about opening up in 1939 with Skidmore?

A. Naturally, must have, sure.

Q. Do you recall what that conversation was?

A. No, I don't.

Q. Now, you had determined, when you started up out

there in 1938, you were going to open a gambling room, had you not?

A. Yes, that was the purpose.

Q. And you gave Hartigan and Wait shares of stock.

A. Yes, that is right.

Q. And they were going to run the gambling room. Now can you tell us why it was not opened?

Mr. Thompson: Object to that as improper cross examination; immaterial; having been asked and answered.

The Court: Overruled.

A. I don't know. We just didn't open. I don't know of any reason why we did not, but we just didn't open.

There was a room available and gambling equipment was in it. I do not know where the equipment came from. I think it was purchased by Mr. Wait, but I do not know. Skidmore, Wait and I talked about putting in gambling equipment.

Q. And what did you say in that conversation, either yourself, Skidmore or Wait about buying this gambling equipment.

Mr. Thompson: I object to that as improper cross examination and as immaterial.

The Court: Overruled.

A. Just that as we would get some equipment and open up, that is all.

Q. Well, can you tell us why you didn't open up in 1938?

A. No, I don't know the reason why.

1353 Q. Can't tell any reason why you didn't open up the gambling room in 1938?

A. No, I don't remember.

Q. Was there any reason why you didn't?

A. I don't remember what the reason was, or why we didn't. There was a reason, naturally, but I don't remember what the reason was.

When we opened in 1939 we had a new gambling room. It was the old locker room on the main floor. It had been arranged as a gambling room. Mr. Skidmore and I decided on this new arrangement. The construction work was done before the season opened in 1939. I do not know how much money we spent on this construction. We laid a floor, put in some paneling and did some decorating. Nadherney took care of this. We told him to go ahead and fix up the rooms and we would pay the bills. The price was not discussed. After the gambling room was opened in 1939 I

would be in and out. Sometimes I would be there every night and again I would not be there for a week. When I was there I did not give Hartigan and Wait instructions. I had the right to, but I did not. I do not recall that there was a limit on the dice game. I did not pay much attention to it. Mr. Wait and Mr. Hartigan managed the gambling room. I do not recall whether they consulted me about the limit on the dice game. I do not know whether the limit was \$100. I didn't pay a whole lot of attention to the gambling room. I think I purchased the \$20,000 Judd mortgage from the Republic National Bank. It was a mortgage on property at 2040 Hopkins Place. The memorandum on payments I have was kept by my brother Joe. My brother John received the payments and turned them over to me. The memorandum shows payments to John E. Johnson. I had some building bonds and I turned them into the National Bank of the Republic, I think in 1928 and got two mortgages. I have no other records except that of the payments which began in 1933. I do not recall 1354 the person with whom I dealt at the Bank. I paid \$20,000 for the mortgage. I do not recall on what buildings the building bonds I traded were issued. I bought the bonds from the Bank some time prior to 1928. My name does not appear on the memorandum you have. I received the payments and returned the interest for income tax. The mortgage was purchased in my name. I assume that appears on the Bank's records. I know I got the mortgage at the Bank and signed for it when I received it. There should be a record of it. I do not recall what other mortgage I received at the time of the exchange. The Horner mortgage I bought from the Hamilton State Bank. That mortgage has been paid. Those were the only two mortgages that I held in 1931 which had been paid. I bought the Chicago Land Bank Stock many years ago, in 1926 or earlier. I bought it at the Continental-Illinois Bank. I paid \$5,000 for it. I do not remember whether there were coupons. It soon went into the hands of a receiver. The document I have showing the payments is a letter from the receiver. I purchased an interest in the Dells property in the Spring of 1937. I had a conversation with Skidmore about it in the Fall of 1936. He told me that a man had just left who was telling him that the property was for sale and was a good buy. I had known the property. He told me what it could be

bought for and I said it sounded like a good buy and that I was interested in it. After that we purchased the property. I have seen the witness Eli Herman who testified yesterday. I think I first saw him at the Bon-Air Country Club. I do not recall ever having seen him in a gambling house. I do not know whether I ever saw him at Harlem Stables, may have. There were a lot of people there. I never had any conversation with Herman about the purchase of the Dells property and I never paid him \$400 1355 out at the Harlem Stables. I had nothing to do with the purchase of the Dells property until I paid Mr. Skidmore my share, which was a little over \$11,000. I gave Mr. Skidmore \$10,000 in one payment and one thousand and some odd dollars later. I gave him the money in his office. I had no interest in the purchase of the Dells property until I talked to Mr. Skidmore about it. Nothing has been done with that property except Mr. Skidmore tore down some buildings and hauled away the lumber he salvaged and some old lamp posts were taken from it and put up at the Bon-Air. I was at Harlem Stables the night the Graves were there. Jack Sommers, Earl Jackson and my brother John were also there. I was around looking for business and John happened to be riding with me. Gambling was open at the stables at that time. They had a crap game and a couple of wheels going. I do not know how Sommers happened to be there. I know that Hartigan was home sick. I do not know who was in charge that particular night because I was not there long enough. When John and I walked in, I think Sommers told me that there was an argument going on with Jackson in the rear and I think Sommers told Jackson about my brother John being a lawyer. John was just riding around with me. He was not looking for business. We happened in to the Harlem Stables when the Grave boys were there. I think this was my first trip to the Harlem Stables. I knew that it was going to open and I dropped in to see what was going on. I do not remember the date. I cannot recall who told me that the Stables was going to open, but such news gets around. I did nothing about the argument that was going on in the back room. I do not recall one of the Graves asking me who I was. I did not tell him that 1356 it did not matter. If he had asked me if I was Bill Johnson, I would have said "Yes". I did not say to the Graves that night that they were making the place

a ball of fire for me. When I left the Harlem Stables I went to the home of Walter Sass. It may be a couple of miles from the Stables. I think Earl Jackson, Sommers and John rode over in my car. I drove over there because Jackson had asked John to go over with him and help straighten out his trouble. I just happened in to the Stables that evening. I had nothing to do with ironing out the difficulty. I sat in the living room with Sass, while the others were in the dining room. I had no part in the discussion at any time. I did not know whether the difficulty was settled that night. I think it was later. I am not sure. They must have gotten along all right that night from all indications. John acted as attorney for Jackson at the conference. The conference may have lasted forty-five minutes or an hour. We arrived at the Stables after dinner, but I do not recall the time. I went out to Harlem Stables looking for a game and when I found there was no game I did not leave. Hartigan was a friend of mine and I was willing to help him out. I was not there to see that one of my boys was taken care of. It was not the practice of John to drive around with me looking for a game. He just happened to be with me that night. I do not remember when I was next back at the Harlem Stables. I did not give the Graves, or the other people who testified, a quarter at any time. They were wrong when they said I did. I think I purchased the property at 4020 West Ogden in 1931. I paid \$8500 down and assumed a mortgage for \$8500. Later I paid off that mortgage. I don't remember just when. I bought the property about 1931

and the mortgage had a few years to run. The records will show when I paid off the mortgage. I

bought the property for speculation with the expectation of reselling it. I bought the property at 2141 South Crawford in 1929. In round figures I paid ten or twelve thousand dollars for it. I assumed a mortgage on the property but I do not recall the amount. I paid off the mortgage but I cannot say just when. Government's Exhibit E-1 says that it refers to 2141 South Crawford, but that is not my record and I know nothing about it. I do not recall from whom I purchased the property. I may have had some dealings with the Foreman Trust and Savings Bank with respect to it. I do not recollect whether the mortgage was \$5,000 and became due October 9, 1932. I think the amount was \$5,000. I paid it off some time

later. The entire purchase price of 2141 South Crawford and 4020 West Ogden have been paid. I think 9730 South Western Avenue was purchased in the Spring of 1937, about the time of the Dells property purchase. I first learned of the purchase of the Western Avenue property about the time the Dells property deal was closed. Mr. Skidmore told me that Mr. Goldstein had been looking at some lots on Western Avenue and that he thought they were a good buy and wanted to know if I was interested and I told him, "Yes." I made the purchase for speculation. Every piece of real estate I bought was for speculation at the time I bought it. I was buying the property for a rise in price. In round figures the price was about \$10,000 and I paid one-half of it to Mr. Skidmore. I paid him in his office, but I got no receipt. I do not recall the exact amount I gave him, but it was approximately \$5,000. I gave it to him in currency. I did not talk to Creighton about this property at any time. There was considerable activity

in the Beverly Hills neighborhood and Mr. Skidmore 1358 and I decided to build on the property. We decided

to build a building so that we would get some revenue from it. When we decided to build the building we had no particular use in mind. The type of building we decided to build could be used for a roller skating rink, or a dance hall, or a tavern. It could be used for a gambling house also. I do not recall whether we discussed that use at the time, but we may have. I had no particular tenant in mind when the building was erected and I do not know whether anyone else did. The building and the land cost us about \$35,000. When the land was purchased I stood my half, and when the building was built I stood my half. Mr. Skidmore kept track of the figures. The total investment was about \$35,000. Nadherny was the architect for the building. He showed me a set of plans and I talked with him about them. I told Nadherny to build a building that would be practical for almost anything. I did not tell him to put in a double door system with a little searching room between them. I do not know anything about such an arrangement because I was never in the building after it was completed. I did not tell him to build a building without windows. I do not know whether there are windows in the building. I did not tell him to put a lookout tower on the building, and I do not know that there is a tower on it. I have been up at the Dev-Lin but I do not

know anything about a look-out tower on that building. I did not record the deed that I received for the Western Avenue property. There was no particular reason for not recording it. Goldstein delivered the deeds to me and I thought he had recorded them. I did not examine the deeds. I took them just as he gave them to me and did not know whether they were recorded. I took the deed as

Goldstein delivered it to me and I still have it. Skid-
1359 more and I never discussed whether the deeds should be recorded. Goldstein handled the transaction and I had nothing to do with it except pay my share of the money and receive the deed. I do not recall any conversation with Skidmore with respect to keeping his name out of this transaction. When Agent Sommers asked me who owned 9730 South Western Avenue I told him I owned part of it. He did not ask me who owned the rest of it and I did not tell him. At the time of the conversation with Agent Sommers I knew that Skidmore was under indictment. I would not know whether the grand jury had been investigating Skidmore all the previous summer. I talked with Skidmore after his indictment in September, before I talked with Agent Sommers in November. I do not recall how many times. I cannot say whether it was a dozen times or more. I did not talk to him about his income on the Western Avenue property being kept out of the records, nor did I have any conversation with him at that time about his not having his name appear on the Bon-Air books in connection with the title to the Bon-Air property. I had no conversation with Skidmore on the subject of keeping his name off the records except during construction at the Bon-Air when Skidmore said for me to keep the money in my account. I do not recall his giving me any reason for keeping his name off the Bon-Air books. I was not suspicious of anything at that time and did not ask him. The first time that I recall anybody asking me whether Skidmore owned an interest in the Western Avenue property was here in court. This is not the first time I have told anybody about it. Creighton asked me one time if I was interested in the property and I told him I was and he said, why didn't you tell me, and I told him that it was none of his business. I had this talk with Creighton some
time in the Fall of 1939. I think the conversation oc-
1360 curred at the Bon-Air. I cannot recall just how the subject came up. I remember his asking me whether

I was interested in 9730 South Western Avenue and my saying to him that I did not think it was any of his business. I had known Creighton probably twenty-five or twenty-eight years. I have gambled at the Southland and I have seen Creighton there. The last time I was in the Southland was in 1938, I think, but I do not believe I gambled there at that time. Goldstein told me that Creighton was going to rent the property at 9730 South Western and asked me what kind of a tenant he would be and I told him I thought he would be a good one. I did not talk to Creighton about his renting the property. I have known him many years and we were good friends. He came out to my farm to ride horseback once in a while. I did not mention to him that I was his landlord at 9730 South Western Avenue. It did not happen that way. I did not rent the property to him, Goldstein did. Goldstein turned over to me \$2500 rent in September, 1939. That is the only money I ever received out of the Western Avenue property. Goldstein gave me the cash and I did not give him a receipt. I understood that was my end of the income. I did not ask Goldstein what period it covered. The rent was \$500 a month, but I do not know when the building was first occupied. When Goldstein handed me the \$2500 he did not ask me for a receipt. He gave it to me at the Bon-Air along in the early part of September, 1939. He called some time in the afternoon when I was out there cleaning up and storing things away. Some of the help was at the building, but I do not remember who. I did not know that he was coming out there until he arrived. I do not remember what day of the week it was. He didn't submit any statement to me showing the period the rent covered, nor what expenses there had been. He was to give me a statement later of the taxes and the expenses, but I never received it. I think the first time that

I knew Creighton had spent \$6,000 on the improvement of the building was when Nadherny testified to it here in the courtroom. It may have been earlier, but I learned it from Nadherny. The only reason for purchasing this property and erecting this building outside the city limits of Chicago was for an investment. The building is just across the street, outside the jurisdiction of the Chicago Police Department. I guess it would be within the jurisdiction of the County Police. I know Lester Laird.

Q. How long have you known him?

Mr. Thompson: We object to this as improper cross examination and immaterial. I cannot see what this has to do with Mr. Johnson's income.

The Court: I don't see its relevancy.

Mr. Hurley: Well, it is relevant when he buys a property outside the city limits.

The Court: How is that?

Mr. Hurley: It is shown here that this property is just outside the city limits. It is also shown it is occupied as a gambling house by Creighton after it is erected. Also that this fellow Laird, one of the heads of the County Police and this witness were closely associated.

Mr. Thompson: We except to that statement. We think it is prejudicial.

The Court: I do not see the relevancy.

Mr. Hurley: Well, that is our point.

The Court: Objection sustained.

On December 31, 1939 I had around \$50,000 in cash. I kept it in my vault at home.

Q. At what address?

Witness to the Court: Do I have to give that Judge?

Mr. Thompson: We object to that as immaterial and not proper cross examination.

The Court: What difference does it make?

1362 Mr. Hurley: Well, with no bank accounts, records, or anything here, I think we have a right to go into it. It is a question of concealment as of December 31st, 1939.

Mr. Thompson: This isn't a matter of concealment other than a concealment of assets. He doesn't have to publish to the world where they are.

Mr. Campbell: We have a right to develop his assets over the entire period of this indictment to show accumulation, if there is any.

The Court: Objection overruled.

A. I have a vault at 4224 Hazel Avenue.

Part of the \$50,000 I had was in the vault and part of it in my pocket. I might have had \$40,000 in the vault and twelve or thirteen thousand in my pocket. I did not say I had exactly \$50,000. I do not recall the exact amount. The money was in bills of different denominations, one hundreds and fifties and twenties. Perhaps a few thousands. At that time I think I had \$5,000 of Liberty Bonds. I do not recall

when I bought them. I did not have any stocks. There were still some payments due on the Chicago Joint Land Bank stock. That is all the securities I had. I do not remember when I purchased the Liberty Bonds. To the best of my recollection I told you what cash and securities I had on December 31, 1939. I think I have some old Venezuelan oil stock which I purchased a long time ago. I am not sure whether I still have it. I don't pay much attention to it. I think I had some mortgages on December 31, 1939. There is a mortgage but I don't recall the name of it right now. It is one I have had for a long time. It is the one I got from the National Bank of the Republic when I got the

Judd mortgage. I had no brokerage accounts on December 31, 1939. I think the name of that mortgage is

Keller, but I do not recall the amount. On December 31, 1939 I owned the building at Dearborn and Division, at 2141 South Crawford, 4020 West Ogden and the Sunny Acres farm. I also owned some vacant lots in Beverly Hills, a block east of the Western Avenue property. I bought them back in 1925 or '26. I also own a vacant lot at 147th and Sibley and another on Harlem Avenue in Riverside and some lots in Ford City. It has been so long since I bought these I do not recall when it was. I also own a one-half interest in the Dells property and the Western Avenue property and in the Bon-Air properties. I do not own the Thorndale and Glenwood Apartment Building. I gave that to my brother a year ago. It is a twelve-apartment building and I think it was appraised at \$35,000. It cost me \$60,000 back in 1931. To the best of my recollection I have told you about all of the real estate that I owned on December 31, 1939. I have no interest whatever in the building at 3424 Lawrence Avenue, where the currency exchange was located. I heard Goldstein testify that I gave him the money to buy that property. I also heard him testify to a lot of other things that are not true. There was no truth whatever in his statement about 3424 Lawrence Avenue. I do not know who owns that building. I have never considered opening a bank in that building or a currency exchange. I was never in the Lawrence Avenue currency exchange and I have never done any business there. I never asked anybody to put through any transactions for me at the Lawrence Avenue Currency Exchange and I never asked anybody to go over there to exchange currency or cash checks for me, or to buy any money orders. I seldom had a check. I gambled for cash. If I did have a check,

which would be very seldom, I might ask somebody to cash it for me. If I happened to be in a gambling house I might ask the proprietor to cash it for me. I never made a habit of taking checks. I think Creighton has cashed a check for me a couple of times and Kelly may have cashed a couple of checks for me, but I am not sure. Whatever checks I cashed I have endorsed. I have a bank account at the Continental-Illinois and have had for a good many years. I use that account for paying taxes. I do not think I have used it for any other purpose. I do not recall what balance I had in the account on December 31, 1939. I have never been in the Lawrence Avenue Currency Exchange and I have never done any business there and I have never sent anybody there to do business for me. I know the H. M. Bruns Company. I have ordered flowers from them and I have paid for the flowers that I ordered. I never purchased the money order marked Government X-261. Possibly I gave a bill and the money to Sommers to pay the bill and he may have purchased the money order and sent it to Bruns. The document reads that William R. Johnson is remitting \$36.20 to H. W. Bruns Company, but I never purchased that money order. I often gave Sommers a bill and the money and asked him to take care of it for me and that is what happened in this case. I know H. C. Evans who sells gambling paraphernalia. I know nothing about Government Exhibit X-260 any more than it appears to be a money order made out by the Lawrence Avenue Currency Exchange. William R. Johnson is designated as the remitter, but that would not necessarily be me. I may have purchased some articles from H. C. Evans for charity or bazaars, but I do not recall. I may have sent Curly Couch to buy some such things and may have had them delivered at 4020 Ogden. I do not remember any such transaction, but it is possible. If somebody asked me to buy some paddle wheels, or something for a bazaar or picnic, I might do it for them. I would say my living expenses were around \$10,000 a year. It would not be more than that any year from 1932 through 1939. I took the apartment at 3000

East End Avenue in 1934 and paid around \$165 a month rent. I do not recall exactly how long I paid that amount of rent. I had three different apartments and the rent was different. I think the top I paid was \$200 a month in 1939 and until May, 1940. The \$10,000 a year living expenses includes my automobile expense. The last car I purchased was a Packard in 1937, I think it was

around \$4,000. I drove my mother's Cadillac in 1939. I did not give her the money to buy that car. My mother takes care of the expenses in the house at the farm and I take care of the expenses outside the house. My farm books will show what my personal expenses are at the farm. My mother paid for the furnishings of the home on the farm. I did not give her any of the money to pay for these things. It was not necessary. Roy Love was in charge of construction at Bon-Air in 1938. He was employed by Mr. Skidmore and me. His Company was the Lightning Construction Company. I do not know whether it was incorporated. I had known Love during the years 1935, '36 and '37, but I do not know what he was doing during that period. I have seen him do some work around some gambling houses. I had never seen him constructing any buildings. At the Bon-Air Nuthery was in charge of the building and Love was in charge of the workmen. Sometimes we gave Love money to pay construction bills and sometimes we gave it to Geary. Either I or Mr. Skidmore would give him the money. Love would produce his payroll or other bills and I would turn the bills and the money to pay them over to Geary. We had no special routine so long as the bills were paid. Mr. Skidmore and I hired Love to work with the architect in doing the Bon-Air construction. I knew nothing about

Love's ability to handle that type of construction experience left what I had been told. He had done work for

Sommers and Hartigan and they recommended him very highly. I do not recall anyone else at this time. He had also done some work for me at Dearborn and Division. Mr. Wact handled the money during 1938 and Mr. Geary after that. I do not recall whether Love worked at Bon-Air in 1940. I think he did some cleaning up around the place getting it ready to open. Geary worked there as cashier in 1940. The account of the money paid to Love should be on a construction book, which is the one I am not able to find. I do not know whether Love paid his bills by currency or by check. The bills would be marked "paid" but I would not know whether they would be entered in the construction book. I do not know what bank account Love used for payment of bills. As far as I know Roy Love is the Lightning Construction Company. I cannot say whether Bud Geary ever had any connection with the Company and I never discussed the subject with him or Love. I paid no attention to the details of payment of bills. I knew they would come back marked "paid." I do not know the sig-

nature of John Geary or of Roy Love. So far as I know the e is no member of Geary's family married to any member of my family. Bernard McGrath, also known as Barney, never worked at the Bon-Air, but I have seen him around different gambling houses. I saw him work at the Horse-Shoe and the D and D, but I do not recall anywhere else. He may have been at the Lincoln Tavern while I was out there, but we never went out there together. He is a cousin of mine and is a brother of Conrad McGrath. I do not recall when I last saw Barney. I know E. M. O'Neill & Co., a dealer in gambling paraphernalia.

Q. Did you know that Barney McGrath had a 50% interest in that Company?

Mr. Thompson: We object to this as immaterial and improper cross examination.

The Court: Overruled.

1:67 Mr. Thompson: We would like to know the purpose and the object of this examination.

The Court: I have ruled.

A. Yes, I know he had an interest. What interest I don't know.

Q. Does not McGrath hold that 50% interest for you?

A. No, sir.

Mr. Thompson: We object to that as immaterial and improper cross examination and move to strike it.

The Court: Motion denied.

Q. Were you present when Mr. McGrath acquired this 50% in E. M. O'Neill & Co.

Mr. Thompson: We object to that as immaterial and improper cross examination.

The Court: Overruled.

The Witness: No, I was not.

Mr. Hurley: How did you happen to find out about it?

Mr. Thompson: I object to that as improper cross examination.

The Court: Overruled.

The Witness: That I don't remember.

Q. Have you any idea at all now how you learned that McGrath had a 50% interest in E. M. O'Neill & Co.

Mr. Thompson: We object to this as immaterial and improper cross examination.

The Court: Overruled.

A. That I don't remember. Somebody told me. I forgot who it was.

Q. Was it your brother Elmer?

Mr. Thompson: I object to that as immaterial and improper cross examination.

The Court: Overruled.

1368 A. I don't recall just how I happened to know.

Q. Did your brother John Elmer tell you that he had formed the corporation by which this 50% interest was acquired by Barney McGrath?

Mr. Thompson: I object to that as improper cross examination and immaterial.

The Court: Overruled.

A. I don't recall whether he did or not. That might have been where I heard it.

Q. Had you know of Barney McGrath working anywhere other than these places that you had seen him around prior to the time that he acquired the 50% interest.

Mr. Thompson: I object to that as improper cross examination and immaterial.

The Court: Overruled.

A. I don't know because I don't know when he acquired it.

I have known the defendant Mackay for twenty odd years. I don't recollect where I met him or what places I have seen him. In the past years I have seen him around many places, but I don't recall any particular place. I never saw him at the Casino, but I have seen him at the Garmead Club, across the street, which was operated by Garrett Meade. Mackay may have been working there, but I don't know. I never saw Mackay in the Casino at 4715 Irving Park Boulevard. I think I was in the place when Meade owned it, but I have not been in there since Mackay owned it. There was no occasion for me to go there. He did not have any crap games that amounted to anything. I do not know who owns that building. I have no interest in it. I do not know whether Skidmore does. He and I are not partners in the ownership of that building. I was in the
1369 safety deposit vault of that building. I rented a box down there. I don't remember when I rented it or how large it was. I had it for only a year. I think it was 1928.

Q. What did you keep in there?

Mr. Thompson: We object to this as immaterial and improper cross examination.

The Court: Overruled.

A. Kept money in there.

I did not visit this box very often. Perhaps I was there

four times during the whole year I had it. I do not recall whether I signed a card when I visited the box. I do not recall the size of the box, nor whether the rental was \$12 a year. I do not know whether my box was one of the largest boxes in the vault because I did not see the rest of the boxes. My box was a fair size box, but I do not remember its dimensions. I think Goldstein asked me to rent this box. He said the Vault Company belonged to him. This building was convenient to where I live on Hazel Avenue. I do not know whether the building had changed hands about the time I rented the box. I had never been in the vault before I rented the box. I do not know whether Mackay was the cashier at the Casino when Meade ran the place. Mackay is married to a cousin of mine, a sister of Barney McGrath. I hold 55 shares of stock of the Bon-Air Catering Company. 54 is in my name. We practically own the whole Catering Company. There is one share in the name of Hendricks, who is the watchman at Bon-Air. It was issued to Hendricks at Skidmore's request. That share came from Wait's block. One share was originally issued to Dishinger. The only purpose in issuing this share was for convenience. I understood you had to take out your liquor license in the name of a resident of the County. Mr. Skidmore and I 1370 are the owners of the shares in my name. His name does not appear on the records. There is no written agreement between us evidencing the fact that he is the owner of half of this stock. It is just an oral agreement. I purchased Sunny Acres Farm in March, 1937 and paid \$145,000, plus about \$3700 commission. William Goldstein handled the details of the purchase. No one is interested in that property with me. I think there is 878 acres in the farm and I paid for the farm in currency at the Chicago Title and Trust Company. I got the money out of my box at the Northern Trust Company. I walked from the Northern Trust Company to the Chicago Title with that money in my pockets. It was in all denominations. One hundred dollar bills, five hundred dollar bills, etc. Later I bought 107 acres adjoining my farm and paid \$16,050 for it. Goldstein handled the purchase. I think I got in touch with Goldstein at his office in connection with the purchase of Sunny Acres Farm. I told him I wanted him to see what the farm could be bought for. That may have been some time around February 1937. During the course of the negotiations we went to the office of the seller's agent, Mr. Hessler and then we went to a lawyer's office in the Con-

tinental-Illinois Bank Building. We finally agreed on the price of \$145,000, plus commission. I do not recall just how I got in touch with Goldstein about the purchase of the Runga farm. The Bon-Air Catering Company agreed to pay as rent 15% of the profits from operation. In 1939 the Bon-Air made twenty-two thousand odd dollars in the gambling room. That was credited to the Catering Company. I think the auditors listed it as sundry income. They did not want to put gambling on the books. That was my understanding as to how it was entered. I never looked into the books. Neither Wait nor Hartigan got any part of that twenty-two thousand dollars. Neither of these men has received a quarter for his services at the Bon Air. They have been paid no salary. Mr. Wait 1371 paid out some money for the Catering Company in 1938 and we reimbursed him in 1939. I think it was around \$25,000. I got half of that amount from Skidmore and gave it to Wait. As I remember it, Skidmore gave me \$15,000 and I put \$15,000 with it and paid Wait what he had coming and used the balance to pay other expenses. Skidmore and I owned all of the Bon Air property in equal shares. That included the green house, the white house, the Curran farm and the Bon-Air property. For my half of the purchase price and construction work I have spent \$365,000. I got back eleven thousand some odd dollars, which is half of the \$22,000 gambling profits. Skidmore and I split the \$22,000 50-50. The money was simply credited against the moneys that we had advanced to the Catering Company. It quit loser that year. Skidmore and I did not file a partnership income tax return, but we were partners at Bon-Air and at Western Avenue. I received \$2500 rent from 7930 Western Avenue and reported that in my income. We did not file a partnership return. The only return I filed is the one here in court. Government's Exhibit R-13 is the only one I filed for 1939. The Bon-Air Catering Company filed a corporation return. The only return I filed in 1938 was Government's Exhibit R-12.

Mr. Thompson: We object to this line of questioning on the ground that joint owners of real estate owning an undivided one-half interest do not have to file any partnership return, as improper cross examination.

The Court: Overruled.

My tax returns do not disclose that there was a partnership between me and Skidmore. I did not think that was necessary. I do not believe the Bon-Air Catering Company's

return shows anything about Skidmore's interest. His name does not appear anywhere on the Company's books. I recall making a loan of \$37,000 to Skidmore about the first 1372 of March, 1939. I had made him loans on several occasions, but that was the first time I had loaned him a sum of that size. Previously I had loaned him \$500 or so as an accommodation loan. I do not know whether the \$37,000 could be called such a loan. He asked me for the money and I let him have it. I was over in his office when he asked for it and I brought it back to him the following day. He did not give me a note or any other written evidence of the loan. He repaid the money some time later in the summer. I did not give him a receipt. He repaid the loan in cash at his office at 2840 South Kedzie. I do not remember just why I had Radomski prepare my returns after 1935 instead of Brantman. My return for 1936 was prepared by Radomski and the return for '35 was prepared by Brantman. Radomski used to work for me out at the Lawndale Kennel Club. I happened to meet him and asked him what he was doing and he said he was making out some income tax returns and so I had him make mine out. I told Brantman that I was giving my work to Radomski and asked him to turn over his papers. I do not remember whether Brantman was already at work on the preparation of my return. I called Brantman on the phone and told him I was turning my work over to Radomski, to help him out. I do not know who was preparing Skidmore's returns. I did not know that Radomski was. I did not tell the other defendants that I was changing from Brantman to Radomski. I do not know how some of them happened to change at the same time. I never talked to any of the other defendants about changing from Brantman to Radomski, nor did any of them ever talk to me on the subject until afterwards Hartigan told me later that he had had some trouble with Brantman. Government's Exhibit R-10 is my return for 1936 and was prepared by Radomski. It bears my signature. I gave Radomski the figure on the schedule, \$148,300. That represented income from gambling, crap shooting. That represented all the gambling that I did during 1373 the year. The expense items totaling \$3,134.30 were deducted from the \$148,300, leaving \$145,165.70. The amount I made from gambling and the amount I paid for the farm are approximately the same. I filed my income tax report in March, 1937, which is about the time I bought the farm. My return for the year 1937 is R-11 and it was

prepared by Radomski. It bears my signature. It shows total receipts from gambling \$258,375. I gave that figure to Radomski in one sum. The item of expense deducted was \$3,134.30, which is the same amount as was deducted the year before. The figures that made up the sum were given to Radomski by me or my brother when he was making up the return. Attached to the return is a report on the Lincoln Park Building, which was obtained from Tavalin. There is also a schedule as to the Thorndale Glenwood building, which he got from the same place. The schedule shows a schedule of expenses. These items were, auto used in business \$1,854.30; telephone, stenographic postage and office expense \$780; accounting and legal services, \$500; total \$3,134.30. I did not give Radomski these figures in detail. I would say it was about the same as last year. Brantman originally arrived at the figure. The same amount appears on my return for 1938. Radomski prepared that return, R-12, and I signed it. It shows total receipts \$106,400. That was my winnings from gambling, as I already described. I gave Radomski the sum in one figure. I had the figures in this little account book (showing a small book). I am not very proud of it. It is pretty well worn. I showed it to Mr. Campbell. I have monthly totals in there for the year 1936 and also for '37, '38 and '39. When I went to Radomski to have my return prepared I gave him the figures from this little book. Instead of giving him the month to month figures I gave him the total for 1939 of \$259,710. The entry of \$29,800 for January, '39 was arrived at by checking my bankroll at the end of the month. For 1374 instance, if I started out with a \$20,000 bankroll, whatever I had in excess of that at the end of the month was income. I kept these monthly results on a piece of paper and then when I entered it in my book I threw the paper away. The book is the only record I have. R-13 is my return for 1939. It was prepared by Radomski and bears my signature. The figure \$256,710 was given to Radomski in the manner I described from the figures in my little black book. The schedules attached showing other income were made from complete books and records kept on those items of property. There were schedules showing items of income and items of expense as to my buildings and farm. These were made from books and records. I kept my bankroll and the money I used for living expenses separate. I kept the bankroll in one pocket and my spending money in the other. I always have for years. I kept the

bankroll in my pants pocket, or in my side coat pocket on the right side. I kept my expense money in my left hand pants pocket. I knew Tom Hartigan, Jimmie's brother. I think he operates a horsebook somewhere in the neighborhood of 3946 School Street. I have known Garrett Meade for twenty-five years. Before he went up in the neighborhood of Irving Park and Cicero he had a place on Milwaukee Avenue. I never had any interest in any place that he owned. It has been several years since I saw Garrett Meade, perhaps three or four. I remember writing off rent at the D and D Building for space that Kelly was occupying. I do not remember the amount. The records will show what it was. I wrote it off the same as I did for other tenants. He was out of action and I did not want to break him. I remember putting the air-conditioning in at the D and D, but I do not recall whether that was the time I wrote off the rent. I wrote off whatever amount the records show and at the times indicated. Kelly did not pay for the air-conditioning. I put it in to improve the building. I did not raise the rent after putting in the air-conditioning. When I did not receive rent I did not report it as income. I wrote it off, just as I have 1375 charged off a lot of other rents. I recall testifying that I helped between one hundred fifty and two hundred men to get jobs. This would be over a period of years. They would ask me to help them get a job and I would do everything I could to help. I got them jobs in the houses operated by some of these defendants and also from other people. I made a lot of money gambling. I decided to open up Bon-Air because I thought it was a good investment. I did not make \$11,000 out there in 1939. I quit loser. The gambling room made a profit, but the Catering Company showed a loss. I received from the Bon-Air Catering Company \$11,000, which it had made in the gambling room. I never had any knowledge of what these other defendants were making in the operation of their gambling houses. I made no inquiry before I started the gambling room at the Bon-Air. I had enough experience around gambling houses to know what returns it should yield. The Bon-Air was a different proposition from the gambling houses like the D and D. It was a season place, open three or four months a year. Games are operated differently at a season place than at regular gambling houses. The player has to pay a percentage to the house. It is hard to explain unless you understand the business.

The hazard is not as great to the house, operating as we did at the Bon-Air, as it is at regular gambling houses. There was no limit on the games at the Bon-Air. I let a man bet \$1600 one night, that was the highest bet that was made out there. There was no limit on the games when I was there. I do not know whether there was a limit when I was not there. Wait was not working for me. He had a percentage in the gambling room and was using his own judgment and could do as he pleased. Skidmore and I were equally interested in the gambling room, but Wait and Hartigan were in charge and could operate it any way they felt like. I owned a gambling house a good many years 1376 ago, back in the early 20s on Halsted Street. I never owned a gambling house after 1921. I never operated one anywhere in Chicago after that. I never operated anywhere except Bon-Air. I never had any interest in a gambling house other than Bon-Air after the one I had on Halsted Street. I had no interest in one in 1929. I never ran a gambling house at 2141 South Crawford. I am positive about that. I did not during the years 1928, '29 and '30 own a number of gambling houses. I did not operate any gambling house during that period of time. I own the property at 2141 South Crawford, I bought it in 1929. I never ran or operated, or had an interest in any gambling house after 1930 other than Bon-Air. I never operated a gambling house at 4020 West Ogden. I never employed Barney McGrath at the gambling house at 2141 South Crawford. He was never an employee of mine. I recall being in this building in 1932 with Mr. Brantman when some other men were present. I will ask you whether or not this question was asked you at this time and place.

Mr. Thompson: We object to any cross examination about any such statement; improper cross examination and immaterial. This is ten or fifteen years ago.

The Court: When was this?

Mr. Hurley: This was in 1932, and involves property he owned at that time and that he now owns.

The Court: Overruled.

Mr. Thompson: That is no justification for extending the cross examination. It goes back ten years and is immaterial to any issue in this case.

The Court: Overruled.

1377 I do not remember being asked, "You are the sole owner of the gambling house that you run?" and making the answer, "Yes." Nor do I remember being asked

the question, "You don't have any bank account?" and making the answer "No," nor the question, "Do you keep any independent records from your daily sheets, attempting to balance your bankroll at the end of each day?" and the answer "Yes."

Mr. Thompson: We object to all this as improper cross examination.

The Court: Overruled.

I do not remember being asked the question "What games do you play in the gambling house?" and making the answer, "Craps, black jack, horses, bank—play anything you want to play." Nor being asked the question, "How many dealers do you employ?" and making the answer "It varies." Nor being asked the question, "In an ordinary run?" and making the answer, "Offhand, I would say from ten to fifteen. There are always fellows around a place that we can pick up when we need them. You can't say definitely how many."

Mr. Thompson: We object to all this line of cross examination as immaterial. They are laying a foundation to impeach on immaterial matter.

The Court: Overruled.

I do not remember the question: "Are you your own cashier?" or the answer, "No." Nor the question: "Who is the cashier?" nor the answer, "A fellow named McGrath." Nor the question, "You don't retain the same man right along?" Nor the answer, "No, they come and go." I do not remember the question: "Do you run a place at 2141 Crawford?" and the answer, "Yes, sir." Nor the question: "That was in 1929, wasn't it?" Nor the answer, "I guess so."

1378 Mr. Thompson: We don't want to keep interrupting, but we object to all this line of examination as being immaterial and improper examination.

The Court: Overruled.

Mr. Thompson: We ask that the objection stand to every question of this character.

The Court: Very well.

I never remember hearing the question, "Did you operate in the same place in 1930?" Nor do I remember making the answer, "I can't say; I might have had eight or nine places around that time?" I do not remember hearing the question: "In other words, you had one central place and other relief spots." Nor do I remember answering, "I see you know all about it." I have stated that I never saw the

defendant Brown at the Lawrence Avenue Currency Exchange. I first bet him at the Ogden National Bank. I did not know that he was living at 4200 Hazel Avenue, which is near where I lived.

Mr. Hurley: The checks to which I referred this morning as X-260 and X-261 are in evidence as X-195-1563 and X-195-1502.

I stated this morning that the \$145,000 I used to purchase my farm was taken out of my box at the Northern Trust Company. I cannot tell you right now how much was left in the box after I took that out. I would say it was over \$100,000. I do not remember whether I then had the box up at Irving Park Boulevard. I do not recall how much money I had in that box, nor do I recall how much I put in the box when I rented it. I may have had some papers in there besides my money. I remember moving some money out there, but I do not remember exactly how much. I do not recall how much in excess of \$100,000 I left in the box at the Northern Trust Company after I took out the money to pay for my farm. I counted \$145,000 when I took it out

of the box. I did not have any figure in the box as to 1379 how much was there before I took this money out. I

never kept a memorandum that would show how much money I had in a box. I cannot tell you how much I left in the box, but I know I did not take out the last money I had to buy a farm and leave myself broke. I knew I had plenty of money left, but I don't know how much.

Mr. Thompson: May I have that statement from which you were examining Mr. Johnson?

Mr. Hurley: I don't know whether you are entitled to it.

The Court: What is it?

Mr. Hurley: I don't know whether they are entitled to it.

(Whereupon the following proceedings were had out of the presence of the jury.)

The Court: Now what is it?

Mr. Hurley: I asked him if he was asked certain questions and made certain answers at a certain time and place?

Mr. Thompson: You asked him if he made a statement to certain people. You had a document before you, reading from it.

Mr. Hurley: I had a document; that is true.

Mr. Thompson: I have a right to see that document and make certain whether it is a signed document and have a right to test the thing you were reading from, whether there is any truth in it.

The Court: Is there a motion or an objection?

Mr. Thompson: I was objecting every time he asked a question.

The Court: No, no, now. I say now what is the matter before the Court?

Mr. Hurley: Counsel has asked for this statement. I am objecting to turning it over.

The Court: Objection sustained.

1380 Mr. Callaghan: I move to strike it from the record and ask the Court to instruct the jury to disregard all the examination concerning this alleged statement concerning the year 1929. It is a statement which should have been presented, if at all, on their case in chief. It was not submitted on the direct examination of this witness and was used on cross-examination as an attempted impeachment of him.

The Court: Motion denied.

(Whereupon the following proceedings were had in the presence of the jury.)

Redirect Examination by Mr. Thompson.

I have never seen the statement from which the United States Attorney appeared to be reading and asking questions about the year 1932. I do not remember making any such statement or of ever receiving a copy of it. The farm books which I identified, include all the years 1937, '38, '39. They are all the farm books that I have. I paid the mortgage of \$5,000 on 2141 South Crawford in 1933. The mortgage on 4029 West Ogden was \$9,000 instead of \$8500. I paid \$500 in 1932 and \$8500 in 1933. I filed a gift tax return when I gave my brother the Thorndale Avenue property. The principal items of deduction for automobile expense commented on in cross-examination were depreciation and insurance. They remained the same each year.

Recross Examination by Mr. Hurley.

The automobile expense item includes depreciation, insurance, gasoline and oil. The gasoline and oil might be the same each year.

Mr. Thompson: We renew our offer of DEFENDANTS' EXHIBITS J-8, J-9-A, B, C and J-10.

1381 Mr. Hurley: We object to J-10. There is no proper foundation laid and it is immaterial.

Mr. Thompson: That is the contract under which Mr. Johnson said Bon-Air gas and oil was furnished.

The Court: Has this signature been proven?

Further Examination of Mr. Johnson by Mr. Thompson.

The signature at the bottom of Defendants' Exhibit J-10 is that of William R. Skidmore, who was associated with me at Bon-Air.

The Court: Have you any objection?

Mr. Hurley: There is no proper foundation laid and no connection shown.

(Here occurs a discussion out of the presence of the jury between Court and counsel respecting Defendants' Exhibits J-8 and J-10 and Government's Exhibits X-254 and X-256.)

The Court: I think I will let in all of these papers, if they are offered. The jury can figure out what they mean. The Government's Exhibits X-254 and X-256, as well as those offered by Mr. Thompson will be received.

(Here occurs a discussion between Court and counsel out of the presence of the jury respecting the offer of Defendants' Exhibit J-3, the memo respecting the Dells property purchase. It was received over the objection of the Government that it is immaterial and that no proper foundation was laid for its introduction.)

DEFENDANTS' EXHIBITS J-11 and J-12 were received over the objection of the Government that they were not produced from the proper custody.

1382 T. J. SULLIVAN, being duly sworn, testified as follows:

Direct Examination by Mr. Thompson.

I reside at Oak Park and my business address is 1 North La Salle Street, Chicago. I am a public accountant. I received my accounting training at Northwestern University. After that I had six years public accounting experience, then eighth years as Internal Revenue Agent and now three years with Arthur Young & Co. as a tax accountant. I am a registered public accountant in Illinois and I am admitted to practice before the Internal Revenue Department of the United States Treasury. January 1, 1941 I will be with

Arthur Young & Co. three years. Arthur Young & Co. is a national accounting firm and has affiliated offices in Paris and London. The principal offices in the United States are New York, Chicago, Pittsburgh, Kansas City, Milwaukee, Los Angeles, Dallas and Tulsa. There are eighteen general partners of the firm and our employees varied from 338 to 581 in 1940. I have read the testimony of witnesses in this case relating to the expenditures said to have been made by William R. Johnson during the years 1932 to 1939 inclusive, and I have examined the exhibits in connection with such expenditures. I have made a computation from this testimony and exhibits relating to expenditures. The aggregate of expenditures as computed by me is \$1,298,081.09. My computation differs from that made by the Government's accountant, Frank Clifford. My figure is \$432,310.30 less than his. The items that make up this difference are, Bon-Air \$307,170.23; Lincoln Park Building, \$18,750.00; Albany Park Bank Building \$59,887.05; Dells property, \$7,942.05; 9730 South Western, \$17,757.50; loan to Skidmore, \$37,000; Columbian Gardens property, \$17,500. That makes a total of \$466,006.83. From this I deduct the following items which Mr. Clifford did not include: Interest paid \$1,397.58; purchase of securities in 1933, \$5,000; payment of mortgage on 4020 Ogden \$9,000, and on 2141

Crawford \$5,000, and additional capitalization items 1383 and personal items, \$13,298.95. This leaves a net difference of \$432,310.30. Mr. Clifford charged Mr. Johnson with Bon-Air Country Club at \$660,992.73. Mr. Johnson testified that his expenditures there were \$365,000 and from that I deducted half of the \$22,355 credited at the end of the 1939 season, making Mr. Johnson's net expenditures \$353,822.50. This makes my computation \$307,170.23 less than Mr. Clifford's. The three items which make my computation of Lincoln Park Building expenditures \$18,750 less than Mr. Clifford's is a credit of \$2,250 shown on Government's Exhibit E-9, made to Mr. Johnson when he acquired his second mortgage bonds, and \$8,000 discount made when Mr. Johnson purchased the outstanding \$30,000 of second mortgage bonds, and \$8,500, which is the difference between the \$7,500, which Mr. Johnson said he paid for the equity, and the \$16,000, which Mr. Tavalin estimated. I have eliminated the \$59,887.05 item as to the Irving Park Bank Building purchase because Mr. Johnson denies that he purchased this property. As to the Dells property, the

difference of \$7,942.05 arises out of Mr. Johnson's testimony that he paid one-half of the costs, or \$11,057.95 instead of the item of \$19,000, as testified to by Goldstein. The difference with respect to 9730 South Western Avenue arises out of Mr. Johnson's testimony that he paid one-half of the cost, or \$17,757.50. I have eliminated the \$37,000 loan to Skidmore because it was made and repaid the same year. I have eliminated \$17,500 which Goldstein said that he deposited on Columbian Garden purchases because Mr. Johnson testified that he had made no such deposit and had no interest in the purchases. I have also made adjustments which add to the expenditures made by Mr. Johnson during the period involved. The net total is \$33,696.53. The additions comprise the following: Interest paid on Federal income tax assessments, \$1,397.58; purchase of Government securities in 1933, \$5,000; payment on 1384 mortgages \$14,000; purchase of live stock at the farm in 1939 \$12,964.56 and other personal expenditures of Mr. Johnson for 1939, \$4,645.14. From that total I have deducted an unlocated difference between Mr. Clifford's figures and my capital expenditures at the farm in 1937, amounting to \$4,908.30, less than his figures, and a difference in 1938 amounting to \$597.55 more than his figures. The net difference is \$4,310.75. I have checked the computation of William R. Johnson's net cash income for the period 1932 to 1939, both inclusive. There are some differences between my computations and those of Mr. Clifford. I have computed the total net cash income for the eight years to be \$1,192,066.93, which is \$4,025.08 more than Mr. Clifford's total of \$1,188,041.85. There are three items that make up the difference: Depreciation on Lincoln Park Building for two years \$2500; an item of pro-rated commission expense \$2,172.51, or a total of \$4,672.51. Mr. Clifford allowed an excessive amount of \$642.43 for automobile depreciation, leaving a net difference of \$4,025.08. Mr. Clifford did not assume in his figures that Mr. Johnson had \$78,000 on December 31, 1931 as Mr. Wilson testified, but he started with the figure of \$68,000. In addition to the items which Mr. Clifford credited as cash income to Mr. Johnson, I gave him \$975, the interest on United States securities; \$20,000 derived from the payment of the Judd mortgage; \$12,000 from the payment of the Horner mortgage and \$3,900 collected from the Chicago Land Bank Receiver. Taking into consideration the figures taken from

Mr. Johnson's income tax returns and the other figures I have given, the total cash available to Mr. Johnson during the eight years was \$1,306,941.93. This amount is greater by \$8,860.84 than the expenditures made by Mr. Johnson. Assuming that Mr. Johnson had on hand on January 1, 1932 \$140,000 in addition to the \$78,000 previously assumed, and assuming that he spent \$10,000 a year during the 1935 period for living expenses, the excess of his income over his expenditures for the period would be \$68,860.84 as of December 31, 1939.

Assuming that Mr. Johnson had on hand on January 1, 1932 \$78,000 in cash, he would have had available in cash at the end of that year \$138,345.18. On the same assumption he would have had at the end of 1933, \$163,398.44; at the end of 1934, \$224,167.13; at the end of 1935, \$175,403.67; at the end of 1936, \$281,432.47, and at the end of 1937, \$164,558.05. If we assume that he started out with \$78,000 January 1, 1932, and made the accumulations shown by his income tax returns and made the expenditures as I have testified, his cash position on December 31, 1938 would be overdrawn \$36,458.24. At the end of 1939, on the same basis, he would have had a cash balance of \$8,860.84. Assuming that Mr. Johnson had on hand at the beginning of 1932 \$140,000 in cash, over and above the \$78,000 previously assumed, and assuming that he spent \$10,000 each year for living expenses, he would have had available in cash for investment at the end of 1932 \$268,345.18; at the end of '33 \$283,398.44; at the end of '34 \$334,167.13; at the end of 1935 \$275,403.67; at the end of '36 \$371,432.47; at the end of '37 \$244,558.05; at the end of '38 \$33,541.76; at the end of '39 \$68,860.84. In examining Mr. Johnson's returns for the years 1937, '38 and '39 there are omissions from those returns which under the facts assumed would have reduced the income tax he has paid. In 1937 there was depreciation of \$681 and interest paid of \$1,280.02, or a total of \$1,961.02, which was not claimed. For the year 1938, there was depreciation of \$3,616.37 and for the year 1939 depreciation of \$8,949.31, which was not claimed. If Mr. Johnson had claimed this deduction his tax for 1937 would have been \$127,105.45 instead of \$128,397.72; for the year 1938 \$32,368.59 instead of \$34,530.94 and in 1939 1936 \$124,509.67 instead of \$130,430.52. There would have been a total deduction for the three years of \$2,377.47.

Cross-Examination by Mr. Hurley.

Some of the assumptions I have made are based solely on the testimony of the defendant Johnson. With respect to the expenditures the assumptions are based on Johnson's testimony and exhibits in evidence. The division of the Bon-Air expenditures is based solely on Johnson's testimony. The elimination of the Albany Park Bank Building purchase is solely on his testimony. The elimination of the Columbian Gardens deposit is solely on Johnson's testimony. The figures as to the Dells property is on Johnson's testimony and Defendants' Exhibit J-3. My figures as to 9730 South Western Avenue are based on Johnson's testimony and Goldstein's cross-examination. The repayment of the Skidmore loan in the same year it was made is based on Johnson's testimony. As to the Lincoln Park Building figures, the \$2,250 item is shown by Government's Exhibit E-9 and the \$8,000 discount on the second mortgage and the \$8500 reduction in the cost of the equity is based on Johnson's testimony. I think that is all as far as the expenditures are concerned. As to the assumption that Mr. Johnson had an additional \$140,000 in his box at the beginning of 1932 is based on Mr. Johnson's testimony. I have not taken into consideration the statement of Johnson that he had \$53,000 on hand on December 31, 1939.

Mr. Thompson: We ask to substitute two charts, one to cover the first two columns of Defendants' Exhibit S-28, and the other the third column, as they were received in evidence.

The Court: Any objection.

Mr. Hurley: No.

The Court: They may be substituted.

1387 Mr. Thompson: For the first two columns the substitution will be marked Defendants' Exhibit S-28-A and for the third column the substitution will be marked Defendants' Exhibit K.

Defense rests.

Mr. Hurley: Defendants offered only the name of the account on their Exhibits J-7, A, B, etc. We now offer the remainder of the Exhibits.

The Court: They may be received.

Mr. Thompson: We object to the other matter as immaterial.

The Court: Very well.

Mr. Hurley: We offer GOVERNMENT'S EXHIBITS S-8, 9 and 10, which are the Social Security records of the Horse-Shoe.

Mr. Thompson: We object to them as immaterial. They do not prove or tend to prove any issue in this case and it is not proper matter in rebuttal.

Mr. Hurley: They were testified from extensively. A part of the chart is based on it.

The Court: They may be received.

Mr. Hurley: We offer in evidence GOVERNMENT'S EXHIBITS S-11, 12 and 13, which are the Social Security records of the D. and D.

Mr. Thompson: We object to those as immaterial and improper rebuttal.

The Court: Overruled.

We also offer in evidence GOVERNMENT'S EXHIBITS S-14, 15 and 16, the Social Security records of Creighton.

Mr. Thompson: We object to those as immaterial and improper rebuttal. They are brought into court for the purpose of giving counsel an opportunity to cross-examine from them. The record should not be cluttered up with them.

The Court: They may be received.

1388 ROSE HUEBSCH, being duly sworn on behalf of the Government, in rebuttal, testified as follows:

Direct Examination by Mr. Campbell.

I reside in Chicago and am a stenographer in the Intelligence Unit of the International Revenue Bureau in Chicago. I held that position in 1932. On November 29, 1932 I took a statement of defendant William R. Johnson. Revenue Agent John T. Blocker and Special Agent Tessem and Mr. Brantman, who came in with Mr. Johnson, were present. I took notes of the interview.

Q. On that occasion, was this question asked and this answer given.

Mr. Thompson: We object to this as improper rebuttal and as immaterial to any issue in this case. We call attention to the fact that we have been denied the right to see this alleged statement. Mr. Johnson has never seen it.

The Court: Overruled.

Q. On that occasion, was this question asked, "You are the sole owner of the gambling house that you run? And this answer given, "Yes".

A. Yes.

Q. On that occasion, was this question asked; "You don't have any bank account"? And this answer given, "No".

A. That is right.

Mr. Thompson: If the Court please, I don't want to keep interrupting but I want my objection to the immateriality and improper rebuttal to stand to each question.

The Court: Yes. The record may so indicate and that the objection is overruled.

On that occasion this question was asked: "Do you keep any independent records from your daily sheets attempting to balance your bankroll at the end of each day?" 1389 and this answer given, "Yes." And this question was asked: "What games do you play in the gambling house?" And this answer was given, "Craps, blackjack, horses, bank—play anything you want to play." And this question was asked: "How many dealers do you employ?" And this answer was given, "It varies." And this question was asked: "In an ordinary run?" And this answer was given, "Offhanded, I would say ten to sixteen. There are always fellows around the place we can pick up when we need them. I can't say definitely how many?" And this question was asked: "As the demand calls for the use of them?" And this answer given, "Yes". And this question was asked: "Are you your own cashier?" And this answer given, "No." And this question was asked: "Who is the cashier?" And this answer given, "A fellow named McGrath." And this question was asked: "Who was your cashier in 1929: Gates?" And this answer given, "No, I cannot say offhanded. I don't recall." And this question was asked: "You don't retain the same men right along?" And this answer was given, "No. They come and go." And this question was asked, "Do you run a place at 2141 Crawford?" And this answer given, "Yes". And this question was asked: "That was in 1929, wasn't it?" And this answer was given, "I guess so." And this question was asked: "Did you operate in the same place in 1930?" And this answer was given, "I can't say. I might have had eight or nine places around that time." And this question was asked: "In other words, you had one central place and

other relief spots?" And this answer was given, "I see you know all about it."

Mr. Thompson: We move to strike the testimony as improper rebuttal, and as attempted impeachment on wholly immaterial matter away back in 1929.

The Court: Overruled.

1390 JACOB ROSS, being duly sworn, on behalf of the Government, in rebuttal, testified as follows:

Direct Examination by Mr. Hurley.

I live in Los Angeles, California. At one time I was private secretary to Carl Laemmle. I was his secretary from 1925 to 1939, when he died. In 1936 I accompanied him to Chicago. We arrived on May 7th and left on May 10th. Mr. Laemmle's son and a companion were with us. We stayed at the Drake Hotel. We had a suite of rooms, a sitting room and two bedrooms. The sitting room was between the two bedrooms.

Q. Now, while you were there at the Drake Hotel with Mr. Laemmle, from May 7th to 10th, 1936, was there a Faro game conducted in that suite of rooms.

Mr. Thompson: We object to this as attempted impeachment on a wholly immaterial matter; improper rebuttal as to matters wholly disconnected with each and every defendant in this case except defendant Wait.

The Court: You may step into the jury room ladies and gentlemen.

(The following proceedings were had outside the presence of the jury:)

The Court: Tell me what you expect to prove.

Mr. Hurley: We expect to prove that this game was not conducted in the Drake Hotel, but that through phone calls and a visit to the Villa Moderne, he learned that the game took place there. He wrote out the checks that were mailed to defendant Wait from California.

The Court: What is the materiality as to where this game took place.

Mr. Hurley: It shows the game took place at the Villa Moderne, where Wait said he was running the place, which we contend he was running in connection with all
1391 these places. Furthermore, according to the testimony of Agent Ruggaber, Wait said that he never

got this money. Now Wait takes the stand and says that he did get the money. Also Sommers' endorsement appears on the checks.

Mr. Thompson: My position is that if any of this is material it was a part of their case in chief, to prove where this gambling took place and any other matters connected with it. I think it is not material and have so contended since the matter came up. There is no proof that connected anybody with the Villa Moderne except Wait. Mr. Wait had to speak on the subject of the checks to answer the witness Ruggaber, otherwise the matter would not have been presented as part of the defense. Defendant Wait merely answered the Government's proof. The proffered testimony does not impeach anything material. The I.O.U. that was given to Mr. Wait was held by him until he received the checks through the mail. The fact that Mr. Laemmle gambled at a particular place seems wholly immaterial. I do not recall the witness Ruggaber said that Mr. Wait said that he did not get any of this money. As I recall it, he reported Wait as saying he did not win all of this money and Mr. Wait so testified on the stand. I do not see how it can possibly be material to the question whether there was a scheme on the part of Mr. Johnson to evade the payment of income tax. If they proposed to prove that these winnings were a part of Mr. Johnson's income they should have put that proof in in the first instance. It is not proper rebuttal.

The Court: If the only question here was where the gambling took place, I think I would sustain the objection on the ground that one cannot impeach on an immaterial matter, but apparently that is not the only question involved. Objection overruled.

1392 Mr. Thompson: This witness is not going to prove who got the money.

The Court: Circumstantial evidence. Objection overruled. Bring in the jury.

(The following proceedings were had in the presence of the jury:)

No Faro game was conducted in the suite of rooms at the Drake during the time I was there with Mr. Laemmle between May 7th and 10th, 1936. I was in the suite all the time that Mr. Laemmle was there. I know a man named VonRuakel. He and Mr. Laemmle went out together May 7th or 8th, 1936.

Q. Do you know where they went on that occasion?
Answer yes or no.

Mr. Thompson: We object to that.

The Court: Overruled.

A. I did not know where they went when they left the hotel.

Q. Did you later learn where they went?

A. Yes, sir.

Q. Where was that?

A. Villa Moderne.

Mr. Thompson: We object to that as immaterial and improper rebuttal.

The Court: Overruled.

The party left the Drake Hotel around the dinner hour. I saw Mr. Laemmle the next morning at the Villa Moderne. When I discovered that Mr. Laemmle was not in the suite the following morning I telephoned the Villa

Moderne and learned that Mr. Laemmle was there. I 1393 got a taxicab and went out there and found him there with Ike VonRunkel and some other people belonging to the establishment.

Q. What did you do after you met Mr. Laemmle and Mr. VonRunkel at the Villa Moderne?

Mr. Thompson: We object to that as immaterial and improper rebuttal.

The Court: Overruled.

A. I waited until he was through, remained in the same room with him. He was continuing his play.

Q. How many were there in that game, if you know?

Mr. Thompson: We object to this as immaterial and improper rebuttal.

The Court: Overruled.

A. He alone was playing.

The Witness: Mr. Laemmle, Senior, was the only one playing. I remained there probably less than an hour. We left some time before noon. We took a taxi and returned to the Drake Hotel. After that I drew these checks. They are in my handwriting except for Mr. Laemmle's signature.

Q. And the checks are dated one week apart. Can you tell us why that was done.

Mr. Thompson: We object to this as immaterial and improper rebuttal.

The Court: Overruled.

Mr. Thompson: We certainly object on behalf of all

the other defendants except Mr. Wait, having no connection whatever with any of them.

The Court: What do you say about that?

Mr. Hurley: We expect to show the signature of Sommers to show that they were cashed there, even with Wait's testimony, that connection is there; he had some part of it.

The Court: What year was this?

Mr. Hurley: 1936.

The Court: Overruled.

1394 The Witness: Dating the checks a week apart was for the convenience of Mr. Laemmle. It was always accorded him. I prepared the checks shortly after I returned to California. After Mr. Laemmle signed them I mailed them directly to Wait, asking him to return the I.O.U. which had been given to cover Mr. Laemmle's losses at the Villa Moderne. Mr. Laemmle gave the I.O.U. on the occasion I was at the Village Moderne with him. Government's Exhibits O-219 to O-227 are the checks which I mailed to Mr. Wait. The I.O.U. was returned.

Cross-Examination by Mr. Thompson.

Mr. Laemmle destroyed the I.O.U. upon its receipt. I did not think we should keep it because the Government might want it some day. Mr. Laemmle thought the I.O.U. was of no use after he drew the checks. That was his habit for many years. He was a regular gambler. I do not know whether he had previously gambled with Mr. Wait when he came to Chicago. I know where I was on May 5, 1937. I have a memorandum here. I can also tell you where I was on May 6, 1939. Last Tuesday I was here in Chicago. On this trip I got out to the Villa Moderne before noon, probably around nine or ten o'clock. I do not know the precise hour. I stayed there about an hour. I do not know the time when we left. Mr. Laemmle's son was with me. I do not know the taxicab driver who took us out there, nor the number of his cab. Mr. Laemmle and his son and his friend Von Runkel returned to the hotel with me. I was in the Hotel Drake suite continuously while I was in Chicago. Mr. Laemmle was not. He was out from time to time. He was out all night the night before. I do not know whether he was out two nights or one night. He was not out all night

the next night. I know that he was out all night
1395 one night because I got up in the morning and he
was not there. We were occupying the same bedroom. When I awakened about eight o'clock I saw that Mr. Laemmle had not returned. His bed had not been disturbed so I got disturbed. There was nothing unusual about Mr. Laemmle being out all night. Mr. Laemmle was not here on motion picture business. He had retired. He was here on a pleasure trip. I do not know whether he came here to play Faro with his old pal, Mr. Wait. I do not know that he and Mr. Wait had been friends for twenty years. I had not heard of Mr. Wait until this trip. People with whom Mr. Laemmle generally played granted him the courtesy of letting him make his checks out in series, one week apart. This was the first experience I had had with Mr. Wait. I do not know whether Mr. Laemmle was up at 430 North Michigan Avenue a whole afternoon during the time he was here. I do not know where he was in the afternoon. I never heard of the Pent House. I do not know whether Mr. Laemmle was up there gambling. I heard of the Villa Moderne because when Mr. Laemmle and Mr. Von Runkel went there, Mr. Von Runkel called me and left a telephone number with me. That was in the evening that they went there. They did not have dinner at the Drake Hotel that evening. I do not know where they had dinner. I remember these dates by looking at my dairy. It is just a personal record of trips which we made. I kept it out of curiosity because we were making some necessary trips. Looking at this dairy it shows that we left Reno for Los Angeles on May 6, 1937. On May 10th we were in Los Angeles. We were there from May 9th to May 15th, 1937. I figure that we were in Los Angeles on May 10th because we arrived there on May 9th and we left for some other point on May 15th. Mr. Laemmle had retired completely in 1936 and was drawing no salary. Gambling debts were paid by
1396 checks dated a week apart for his own convenience. He preferred to have payments of this kind made in nominal sums a week apart.

The Court: Don't you think we have about exhausted the possibilities of this subject.

Mr. Thompson: Yes, I think so.

The Court: What is your best judgment?

Mr. Thompson: My best judgment is we exhausted it before we started. I move to strike all this testimony

from the record as having no bearing on this case and as hearsay to the defendant Johnson, and no connection with him.

The Court: Motion denied.

Mr. Hurley: We offer the original checks and ask to substitute the photostats, which are already in evidence.

The Court: Any objection.

Mr. Thompson: No objection to the substitution. The checks are immaterial and improper rebuttal and hearsay as to every defendant in this case, except possibly Wait.

The Court: Objection overruled.

The Government rests.

The foregoing with the exhibits identified, was all the evidence offered and received on the trial of this cause.

(The following proceedings were out of the presence of the jury:)

Mr. Thompson: We move to withdraw a juror and declare a mistrial on the ground that the Government in the cross examination of Mr. Johnson insinuated that Mr. Skidmore, his business associate, was a political fixer and that Mr. Johnson was the gamblers' collector of this community; and also insinuated in the cross examination of Mr. Johnson that he was bribing the Chief of the County Police; and because of other insinuations by their questions on cross examination of defendant's witnesses, none of which has been proven nor which could be proven.

The Court: Motion denied.

1397 Mr. Thompson: Now we move that the Court direct a verdict of not guilty as to the first count of this indictment, as to each of the defendants severally.

The Court: Motion denied.

Mr. Thompson: And the same motion as to the second count.

The Court: Denied.

Mr. Thompson: The third count.

The Court: Denied.

Mr. Thompson: The fourth count.

The Court: Denied.

Mr. Thompson: The fifth count.

The Court: Denied.

The Court: That was a motion, I suppose, on behalf of each defendant severally.

Mr. Hess: That is right.

The Court: And for a finding as to each count severally.

Mr. Thompson: A motion severally as to each defendant on each count severally.

The Court: They are all denied and exceptions allowed.

Mr. Thompson: Now we move to strike the testimony of the witness John W. McGinnis, President of the Deerfield Bank.

The Court: It may be stricken.

Mr. Thompson: We move to strike the testimony of Frank Lutz, who was a teller at the Deerfield Bank.

The Court: I think his testimony may go out.

Mr. Thompson: You have already ruled on my motions to strike the grand jury testimony of the witness Brown, and I do not want to burden you, but it seems to me that under the authority which I showed your Honor that this testimony is not an act in the course of the conspiracy.

1398 The Court: If that is the law we cannot try a conspiracy case without error. It does not sound like good law to me. So you take that point up.

Mr. Thompson: Now then in the records of Nationwide News there appears on some of the accounts some handwriting, which is pure hearsay. There wasn't the slightest attempt to make any proof as to how that matter got on the records. For instance, here is the customer's account of Flanagan and written across the corner of the sheet is the words "Bill Johnson's book."

The Court: It is a question of weight. The statute says so.

Mr. Thompson: Surely somebody cannot write memoranda on books and bind us by them.

The Court: The statute is plain.

Mr. Thompson: I move to strike the two currency exchange money orders which were used in the cross-examination of Mr. Johnson. They are purely hearsay as to Mr. Johnson.

The Court: Denied.

Mr. Callaghan: We move on behalf of each defendant that the Government be required to elect upon which count or counts of the indictment it will proceed.

The Court: Denied.

Mr. Callaghan: More specifically, we move to require the United States to declare whether it will proceed under the first four counts of the indictment, or under the fifth

count of the indictment on the ground that each of the counts charges a conspiracy.

The Court: Denied.

And thereupon the attorneys for the Government and for the defense argued the case to the jury.

Thereupon the Court gave to the jury the following charge:

1399 The Court: Ladies and Gentlemen of the Jury:

It is the duty of the Court to deliver to you instructions for your guidance in the consideration of the evidence and in your deliberations upon this case.

The instructions which the Court will give you, in so far as they pertain to the principles of law applicable to this case, must be accepted by you as a binding control and guide in your consideration of the evidence and in your
1400 deliberations.

The responsibility rests upon you to determine the facts of this case, under the law as the Court may give it to you, uninfluenced by any expression of opinion that the Court has made or may hereafter make upon matters of fact. The Court has not intended at any time during the trial of this case, and does not intend at any time to express any opinion on any matter of fact, and if the Court has expressed or does express any opinion on any matter of fact you are at liberty to disregard such opinion, and it is your duty to disregard it, if it is different from your own opinion.

This is a criminal case, and the law in such cases is that a defendant comes into court presumed to be innocent, and that presumption protects him until such time, if such time shall come, when the jury shall believe from the evidence in the case, beyond a reasonable doubt, that the defendant is guilty as charged in the indictment or some count thereof.

The guilt of an accused is not to be inferred because the facts proven are consistent with his guilt, but,
1401 on the contrary, before there can be a verdict of guilty you must believe from all the evidence, and beyond a reasonable doubt, that the facts proven are inconsistent with his innocence. If two conclusions can reasonably be drawn from the evidence, one of innocence and one of guilt, you should adopt the former.

The defendants on trial have pleaded not guilty. The law does not require any defendant to prove his innocence. The burden of proving the charges in the indictment rests

upon the Government, and you cannot find the defendants guilty unless, from all the evidence, you believe them guilty of the offenses charged in this indictment beyond a reasonable doubt.

If you believe from the evidence that any witness in this case has knowingly and wilfully testified falsely on this trial to any matter material to the issues in this case, you are at liberty to disregard the entire testimony of such witness, except in so far as it has been corroborated, if you find it has been corroborated, by other credible evidence or by facts and circumstances proven on the trial.

Your verdict in this case must be reached from a consideration of all the evidence in the case, but if any evidence was admitted and was later stricken out, you must wholly disregard such evidence as was stricken out.

During the trial of a law suit it often become the duty of counsel for the parties to object to questions, or to evidence, and I instruct you that you shall not take into consideration against such party either such objections or the number of them, nor permit yourselves to be in any way influenced by such objections against the parties.

The fact that an indictment has been returned is not evidence; nor is the indictment evidence. The indictment is not to be treated by you in any way as raising a presumption of guilt or creating any kind of prejudice against these defendants, or any of them. The indictment is simply the form or manner prescribed by law for preferring a charge against an individual, and must be regarded in that light, and in no other light.

1403 A reasonable doubt is what the term implies,—a doubt founded on reason. It does not mean every conceivable kind of doubt. It does not mean a doubt that may be purely imaginary or fanciful, or one that is merely captious or speculative. It means, simply, an honest doubt that appeals to reason and is founded upon reason. If, after considering all the evidence in the case, you have such a doubt in your mind as would cause you, or any other reasonably prudent person, to pause or hesitate before acting in a grave transaction of your own life, then you have such a doubt as the law contemplates as a reasonable doubt.

You are the sole judges of the credibility and the weight which is to be given to the testimony of the witnesses who

have testified upon this trial. In weighing the testimony of each witness you should carefully scrutinize the same; consider all the circumstances under which the witness testifies; his demeanor on the stand; the relation which he bears to the Government or the defendants; the manner in which he might be affected by the verdict; the extent to which 1404 he is corroborated or contradicted by other credible evidence, and, in short, any circumstances that tend to throw light upon his credibility. And, applying these tests which I have just stated, it is for you to determine the weight which is to be given to the testimony of each witness.

During the trial, evidence has been admitted only as to certain defendants. You may consider that evidence, so limited, only as to those defendants, and not as to other defendants.

The statement of the defendant Sommers made on December 29, 1939, was received against him alone, and is to be considered against him alone.

The statement of the defendant Hartigan which was made on December 28, 1939, was received against him alone, and is to be considered against him alone.

The statement of the defendant Kelly made on January 3, 1940, was received against him alone, and is to be considered against him alone.

The testimony of the defendant Brown before the 1405 Grand Jury was received against him alone, and is to be considered against him alone.

The statement of the defendant Brown to the Witness Clifford that he, Brown, destroyed the records of the Lawrence Avenue Currency Exchange, if it was made, is admissible only against the defendant Brown.

During the course of the trial, declarations, statements and conversations of one or more of the defendants, made out of the presence of the other defendants, have been admitted in evidence.

Under the first four counts of the indictments, the declarations, statements and conversations of one or more defendants, made out of the presence of the other defendants, are not binding upon any other defendant, and must not be considered by you against any other defendant or defendants.

Under the Fifth Count of the indictment, the rule in respect of declarations, statements and conversations made

out of the presence of the other defendants is as is
1406 next hereinafter stated. The declarations, statements
and conversations of one or more defendants, made
out of the presence of the other defendants, is not binding
upon any other defendant, unless the evidence—not in-
cluding any of such declarations, statements or conversa-
tions other than his own—shows, beyond a reasonable
doubt, that such other defendant was a participant in the
conspiracy charged in the Fifth Count of the indictment
at the time of such declarations, statements or conversa-
tions, and unless, further, the declarations, statements and
conversations were in furtherance of the conspiracy and
made during its continuance. When men enter into an
agreement for an unlawful end, they become agents for one
another and have made a partnership in crime. What one
does pursuant to their common purpose, all do, and declara-
tions, statements or conversations by one in furtherance of
the conspiracy and during its continuance are competent
against all. It is wholly a question of fact for the jury to
determine who, if any, were the members of the conspiracy
charged in the Fifth Count of the indictment, if you find
there was such a conspiracy.

1407 Certain of the defendants have testified on the
witness stand. You have heard their testimony. The
fact that they are defendants does not mean that they
cannot tell the truth. You should weigh the testimony of a
defendant by the same rules that you weigh the testimony of
any other witness. But you should keep in mind that he is a
defendant in the case and, of course, has a vital interest in
the outcome of the trial.

Certain of the defendants did not testify. You are not to
take into consideration, as against said defendants, the
fact that they did not testify. The law gives to a defendant
an absolute privilege to testify or not to testify, as he
deems best. If he does go on the witness stand and testify,
then he is like any other witness. If he does not testify, that
is not in any sense to be taken against him. He is exer-
cising only the absolute right that is given him by the law.
What I mean to say is, that you must give full effect to the
provision of law that the fact that a defendant does not
testify shall not create any presumption of guilt against
him, and must not be taken into consideration by
1408 you against him.

There has been some evidence introduced with ref-
erence to the reputation of certain of these defendants in

their own communities. The circumstances may be such that an established reputation for good character may alone create a reasonable doubt, although without it the other evidence would be convincing. You should take the evidence of good reputation into consideration in determining the guilt or innocence of such defendants. But the mere fact that a defendant may have had a good reputation prior to this time should not be used by you as an excuse to acquit him in this case if you believe, beyond a reasonable doubt, from all the evidence in the case, including the evidence of good reputation or good character, that he is guilty as charged in the indictment.

There are two kinds of evidence—direct and circumstantial. Direct evidence is that sort of evidence by which a fact is proved directly and without inference from other facts, and is usually given by witnesses who saw, 1409 heard or otherwise observed some particular fact or occurrence. Circumstantial evidence is that sort of evidence by which an inference of an unknown fact is drawn from the existence of known facts. For example, if, when you went to bed at night, you saw the ground was bare of snow, and in the morning when you awakened, you saw the ground covered with snow, while you had not seen the snow fall, nevertheless you can infer from the evidence you see, that it has snowed during the night. That is an illustration of what circumstantial evidence is.

Circumstantial evidence in criminal cases is the proof of such facts and circumstances connected with or surrounding the commission of the crime charged as tend to show the guilt or innocence of the party charged. If the facts and circumstances shown by the evidence in this case are sufficient to convince the jury of the guilt of the defendants, or any of them, beyond a reasonable doubt, then such evidence is sufficient to authorize the jury to find that defendant or those defendants, guilty. The law demands a conviction where there is sufficient legal evidence to 1410 show a defendant's guilt beyond a reasonable doubt, and circumstantial evidence is legal evidence.

The jury have a right to weigh and examine the evidence closely and carefully in the light of the common knowledge and experience of mankind, and have a right to take into consideration the common knowledge and experience of mankind in determining whether the evidence is reasonable or unreasonable, or probable or improbable, and in determining what weight it is entitled to receive.

You must not permit the kind of business in which the defendants were engaged to prejudice you against them, or any of them. The fact, if it be a fact, that some defendant or defendants committed some offense against the laws of the United States or the State of Illinois other than those charged in the indictment creates no presumption that such defendant or defendants committed the offenses here charged against him or them.

The charges of the Government are presented in five counts of an indictment, each count averring that the 1411 defendants are guilty of a separate and distinct crime.

The defendants named in the indictment are: William R. Johnson, William R. Skidmore, William Goldstein, Andrew J. Creighton, Jack Sommers, Edward Wait, James A. Hartigan, John M. Flanagan, Orris Alexander, William P. Kelly, Reginald E. Mackay, Stuart Solomon Brown and Bernice Downey. The case has been dismissed as to the defendants Skidmore, Goldstein, Alexander and Downey, and you are to consider only the guilt or innocence of the defendants Johnson, Creighton, Sommers, Wait, Hartigan, Flanagan, Kelly, Mackay and Brown. The fact that the indictment has been dismissed as to certain defendants should in no way influence you in passing upon the guilt or innocence of the defendants on trial.

The First Count charges that in 1936 the defendant Johnson had a gross income of \$607,399.48 and deductions of \$1,573.84, and that for said year he should have paid an income tax of \$385,316.67; that the defendant Johnson, wilfully and knowingly attempting to defeat and evade 1412 a large part, to-wit \$313,401.32, of said tax, made, under oath, and filed an income tax return for 1936 stating his gross income to be \$163,466.58, and deductions of \$1,573.84, and showing a tax due of \$71,915.35, and no more.

The Second County charges that, in 1937, the defendant Johnson had a gross income of \$880,949.94 and deductions of \$83.74, and that for said year he should have paid an income tax of \$588,634.31; that the defendant Johnson, wilfully and knowingly attempting to defeat and evade a large part of said tax to-wit, \$460,234.59, made, under oath and filed an income tax return for the year 1937 stating his gross income to be \$248,743.92 and deductions of \$83.74, and showing a tax due of \$128,399.72 and no more.

The Third Count charges that in 1938 the defendant Johnson had a gross income of \$959,908.28 and deductions

of \$551.68, and that for said year he should have paid an income tax of \$649,295.01; that the defendant Johnson, wilfully and knowingly attempting to defeat and evade a large part of said tax, to-wit, \$614,764.07, made, under oath, and filed, an income tax return for the year 1938, 1413 stating his gross income to be \$102,498.36 and deductions of \$551.68, and showing a tax due of \$34,530.94, and no more.

The Fourth Count charges that in 1939 the defendant Johnson had a gross income of \$932,571.96 and deductions of \$1,005.06, and that for that year the defendant Johnson, wilfully and knowingly attempting to defeat and evade a large part of said tax, to-wit, \$497,744.33, made under oath, and filed an income tax return for the year 1939, stating his gross income to be \$252,720.53 and his deductions \$1,005.06, and showing a tax due of \$130,430.52 and no more.

Each of said four counts also charges that the defendant Johnson, as a further means of wilfully attempting to evade and defeat said taxes, concealed and caused to be concealed from any and all proper officers of the United States, his gross and net incomes aforesaid, and the sources of said gross and net incomes, and all books and records reflecting said gross and net incomes and the sources thereof.

Each of said four counts also charges that the other defendants, Andrew J. Creighton, Jack Sommers, 1414 Edward Wait, James A. Hartigan, John M. Flanagan,

William P. Kelly, Reginald E. Mackay and Stuart Solomon Brown, did unlawfully, feloniously, wilfully and knowingly aid, abet, induce, and procure the said defendant William R. Johnson wilfully and knowingly to attempt to evade and defeat his income taxes for the years 1936 to 1939, inclusive.

Generally speaking, Counts 1, 2, 3 and 4 charge the defendant William R. Johnson with willful attempt to defeat and evade income taxes alleged to be due from him to the United States, and charge the other defendants with aiding, abetting, inducing and procuring the defendant Johnson in his alleged willful attempt to defeat and evade.

There is a law of the United States which reads as follows:

"Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets,

counsels, commands, induces or procures its commission is a principal."

1415 Accordingly, it is the law that one who aids, abets, counsels, commands, induces or procures the commission of a crime is a principal, and you may consider Counts 1, 2, 3 and 4 of the indictment as charging that all of the defendants wilfully attempted to evade and defeat the income taxes alleged to be due from William R. Johnson for the years in question.

The Fifth Count charges that all the defendants conspired to defraud the United States of income taxes due or to become due from Johnson for the years 1936 to 1939, inclusive.

Counts 1, 2, 3 and 4 charge a violation of a law of the United States which reads as follows:

"Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof shall"

be punished in the manner provided by the statute.

The statute, you will observe, makes it a crime wilfully to attempt "in any manner" to evade or defeat any 1416 tax. Accordingly, there are various means that might be used in an attempt to evade or defeat a tax. Counts 1, 2, 3 and 4 charge that the particular means were the filing of false income tax returns by the defendant Johnson for the years 1936, 1937, 1938 and 1939, in which his gross income and net income were understated, and those counts also charge, as a further means of attempting to evade or defeat the taxes on the income of defendant Johnson for those years, that he concealed and caused to be concealed from any and all proper officers of the United States his gross and net incomes, and the sources of said gross and net incomes, and all books and records reflecting said gross and net incomes and the source thereof.

The gist of the offences charged in Counts 1, 2, 3 and 4 is the alleged wilful attempt on the part of the defendants to evade or defeat the tax imposed upon the defendant Johnson by the income tax law.

The word "attempt" as used in this statute involves two elements—first, a wilful intent to evade or defeat the tax, and, second, some act done in furtherance 1417 of such intent.

The "attempt" contemplated by the statute must be a wilful attempt, that is, the attempt must be inten-

tionally and designedly made and with a purpose to do wrong. Even though you should believe from the evidence that the returns filed by the defendant Johnson were incorrect, if you further believe that the defendants, or any of them, acted in good faith in making such returns, then that defendant, or those defendants, are not guilty of the offenses charged in the first four counts. Nor would mere negligence or carelessness, unaccompanied by bad faith, render a defendant guilty under these four counts. The word "attempt" contemplates that the defendants had knowledge and understanding that, during the respective calendar years, 1936, 1937, 1938, and 1939, and defendant Johnson had an income which was taxable and which he was required by law to report, and that the defendants wilfully attempted to evade or defeat the tax thereon, or a portion thereof, by purposely failing to report all the income of the defendant Johnson which they knew he had during such calendar years, and which they knew should have been reported in his return for those years, or that as to the years 1936 and 1937 they concealed and caused to be concealed from any and all proper officers of the United States his gross and net incomes, the sources thereof, and all books and records reflecting said gross and net incomes and the sources thereof.

In this connection, you are instructed that a man may not shut his eyes to obvious facts and say he does not know. He may not close his observation and his knowledge to things that are out in the open, obvious to him, and say "I had no knowledge of those facts." He must exercise such intelligence as he has, and if the evidence shows that the defendants believed that the defendant Johnson was taxable but that they desired and intended to conceal his income from the Government, then, of course, they were not acting in good faith. This question of intent is a question which you must determine for yourselves from a consideration of all the evidence.

1419 As I have indicated, the question of intent is a matter for you, as jurors to determine, and, as intent is a state of mind and it is not possible to look into a man's mind to see what goes on there, the only way you have of arriving at the intent of each of the defendants in this case is for you to take into consideration all the facts and circumstances shown by the evidence, including the exhibits,

and determine from all such facts and circumstances what their respective intents were at the times in question.

The offenses with which the defendants are charged in counts 1, 2, 3 and 4, involve two principal elements, namely (1) Whether there was due from the defendant Johnson for the years named an income tax in an amount greater than that reported by him, and if you are convinced that such was the case (2) Whether there was a wilful attempt by the defendants, or any of them, to evade and defeat any part of such taxes in the manner charged. First, Was there an income tax due in excess of the amount reported? If

you answer that question in the affirmative, then the 1420 further question is, Was there a wilful attempt on the part of the defendants, or any of them to evade and defeat any part of such tax by the means of filing false returns or as to the years 1936 and 1937 by concealing or causing to be concealed from any and all proper officers of the United States his gross and net incomes, the sources thereof, and all books and records reflecting said gross and net incomes and the sources thereof, as charged in these four counts. As to Counts 1, 2, 3 and 4 you have these questions.

The Government is not bound to prove the exact amounts of income, charged in these counts to have been received by the defendant Johnson, but it will be sufficient to sustain the allegations of these counts, so far as the amount of gross income, amount of net income, and the amount of taxes due thereon are concerned, if any amounts are shown which are in excess of the amounts reported by the defendant Johnson and which show a greater tax was due from the defendant Johnson than those which were shown upon his return.

1421 In making these determinations, it is necessary that you know something of the provisions of the Revenue Acts applicable to the years 1936 to 1939, inclusive, which imposed the taxes involved. During these years, the revenue laws of the United States required that every individual having a gross income for the taxable year of \$5,000.00 or more, should make, under oath, a return, stating specifically the items of his gross income and the deductions and credits allowed by law. The obligation of the law is to report items of gross income specifically,—not simply a gross sum, but items reported specifically, with claims for specific deductions,—so that when the return is made, the proper officials of the tax department of the United States

can form some idea from it as to its accuracy and can more readily check the items reported.

The income tax returns of taxpayers must be made on or before the 15th of March following the close of the calendar year, to the Collector for the district in which is located the legal residence or principal place of business of the 1422 person making the return.

You will observe that only income is taxable. Income is the gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. The first step in arriving at the income of an individual upon which the tax is imposed is to determine the gross income of the individual. Gross income includes gains, profits, and income derived from salaries, wages, and income of every kind, and from professions, trades, or sales or dealings in property; also from interests, rents, dividends, or the transaction of any business carried on for gain.

After the gross income of an individual is determined, the next step provided by law for arriving at the income upon which the tax is computed, is to deduct from the so-called gross income such deductions as the statute permits. An individual is permitted to deduct from his gross income all the ordinary and necessary expenses paid or incurred

during the taxable year in carrying on any trade or 1423 business, including a reasonable allowance for salaries or other compensation for personal services actually rendered to such individual; also for rentals for the use or possession of property connected with and used in a trade or business; also, taxes paid by the individual in the taxable year; also, interest paid or accrued on indebtedness; also losses sustained during the year for which the individual was not reimbursed by insurance, if such losses are incurred in the trade or business; also, losses sustained during the year for which the individual is not reimbursed by insurance if said losses are incurred in any transaction entered into for profit, although not connected with any trade or business. He is also entitled to make deductions of a reasonable allowance for the exhaustion, wear and tear of property used in trade or business.

Contributions or gifts made by an individual to be used for religious, charitable, scientific, literary or educational purposes, including contributions to organizations of war veterans, are deductible from gross income.

1424 The mere spending of money, in and of itself, does not entitle the individual to a deduction; it is only if he spends the money for one of the purposes allowed by law as a deduction is he permitted to subtract it from his gross income to determine his net income.

A person may spend money; what he spends may or may not be a deduction. If it is one of the deductions allowed in the revenue laws, then it is a deduction; otherwise it is not, regardless of the fact that it is spent.

After such of these deductions from gross income as the individual is entitled to are made, the amount remaining is the net income, and this net income forms the basis of the computation of the income tax.

In determining whether the defendant Johnson received a net income in excess of that reported in his income tax returns for the years in question, you may consider all the facts and circumstances in evidence and view them in relation to each other.

To constitute anyone of the defendants, other than the one charged herein as a principal, an aider and abettor, or 1425 an accomplice, he must take some part or perform some act in connection with the specific offense charged in the indictment, and such participation must be performed pursuant to a common design. The mere knowledge, if there be any, by any of such defendants that a crime is being or is about to be committed cannot be said to constitute such defendant an aider and abettor, or an accomplice. Aiding, abetting, or assisting in the commission of a crime are affirmative in character. To constitute one an aider and abettor he must in some sense promote the venture, make it his own or have a stake in its outcome. It is not sufficient that any of such defendants have a mere negative acquiescence not in any way known to the principal.

Even should you believe from the evidence that the acts and declarations of those persons charged as aiders and abettors were done or made by such persons, you cannot find any of such persons guilty in this case unless you further find that said acts and declarations have been done or made by those persons accused as aiders and abet- 1426 tors with the intention of encouraging, aiding and abetting the defendant, William R. Johnson, in a wilful attempt to defeat and evade his income taxes for the years in question. By that I mean, that it must be proven that the defendants charged as aiders and abettors were

motivated and acted with a felonious intent and in pursuance of a design to aid and assist the defendant Johnson, in wilfully attempting to defeat and evade his income taxes for the years in question.

Before you can find defendants who are charged here as aiders and abettors guilty, you must find beyond a reasonable doubt that they knowingly and wilfully aided and abetted the defendant, Johnson, to attempt to evade his income taxes as charged in Counts One to Four, inclusive, and it is not enough for you to believe beyond a reasonable doubt that they, or some of them, operated gambling houses in concert with each other or with the defendant, Johnson, unless you further believe beyond a reasonable doubt that said concerted operation was knowingly and wilfully entered into for the specific purpose and with the 1427 specific intention of aiding and abetting defendant, Johnson, in attempting to evade and defeat his income taxes for the years 1936, 1937, 1938, and 1939.

In this case it is incumbent upon the Government to prove that the defendant, Johnson, "wilfully" attempted to defeat and evade payment of his income taxes for the year 1936, 1937, 1938, 1939. When the existence of a particular intent forms part of the definition of an offense, as in the case at bar where the offense must be wilful, any person charged with aiding and abetting the commission of the offense, must be shown to have known of the existence of that intent on the part of the principal before such person can be convicted as an aider and abettor.

The Fifth Count of the indictment charges that the defendants, from a period of time extending from on or about January 1, 1936, and for a long time prior thereto, up to and including the date of the filing of the indictment, in the City of Chicago, State and Northern District of Illinois, unlawfully, wilfully, knowingly and feloniously did 1428 conspire, combine, confederate and agree together and with divers other persons to the grand jurors unknown, to defraud the United States of America of income taxes which should become due from the defendant, William R. Johnson, and which did in fact become due to the United States of America from the defendant Johnson for the calendar years 1936, 1937, 1938 and 1939, in the aggregate amount of approximately \$1,886,144.31, which said unlawful conspiracy, combination, confederation and agreement was then and there a continuing one for de-

frauding the United States of America of income taxes which should become due and which did in fact become due under the circumstances, by the means and methods, and

That the defendants would conceal from any and all Internal Revenue Officers the investment, participation and true ownership of William R. Johnson in divers gambling businesses and houses and related enterprises in and about Cook County and Chicago, Illinois;

1429 That the defendants, other than Johnson, Skidmore, Goldstein, Brown and Downey, would open, maintain, and operate for the financial benefit of said Johnson, but under names other than Johnson's, said gambling enterprises or houses, and would thereby conceal and cause to be concealed from any and all Internal Revenue Officers the true ownership by said Johnson thereof;

That the defendants would open, maintain and operate divers currency exchanges, and in particular, the Lawrence Avenue Currency Exchange in the City of Chicago, for the purpose of furnishing banking facilities to the defendant Johnson and the gambling houses, so as to enable the defendant Johnson to conceal from Internal Revenue Officers his financial interest in and net taxable income from said gambling enterprises or houses;

That the defendants, through the Currency Exchanges and divers other places would cause all of the profit and income from said gambling establishments to be converted into currency in such a manner as to conceal the source, ownership and disposition thereof, and to prevent the making of any record thereof, and thereby prevent the agents and officers of the United States from establishing the true gross and net incomes derived from the gambling establishments to the use and benefit of said Johnson; and would conceal and destroy any and all records of the said currency exchanges to prevent their discovery and examination by officers and agents of the United States;

That the defendant would acquire, maintain, and operate, a building in such a manner as to conceal the fact that said building was the headquarters for said gambling enterprises, and, in particular, the fact that said building housed the central point from which certain information relating to horse races and race tracks was transmitted by electrical device, that is to say, by telephone and teletype, to said gambling houses;

That the defendants would file and cause to be filed with the Collector of Internal Revenue for the First Internal Revenue Collection District of Illinois, income tax returns for the calendar years 1936 to 1939, both inclusive, for the defendant Johnson, which income tax returns would 1431 contain false and fraudulent statements and items pertaining to the income of said Johnson, especially as to the course of income from gambling enterprises or houses, and would thereby show on said returns a much less net income for each of said calendar years than in truth and in fact said Johnson would and did have for each of said calendar years, and, thereby, a much less income tax due by said Johnson to the United States.

The law of the United States upon which this Fifth Count is based reads, in part and so far as material here is as follows:

"If two or more persons conspire • • • to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be" punished.

It is not necessary, under this conspiracy count, that the Government prove that the defendants defrauded the United States. The charge in this Fifth Count is that 1432 the defendants conspired to do that.

The essence of the offense of conspiracy is the unlawful combination, confederation, or agreement to defraud the United States. To "conspire" means to agree, to combine, to confederate.

It is not necessary, to constitute a conspiracy, that two or more persons should meet together and enter into an explicit and formal agreement for an unlawful scheme, or that they should directly, by words or in writing, state what the unlawful scheme was to be and the details of the plans by means of which the unlawful combination was to be effected. It is sufficient that two or more persons, in any manner or through any contrivance, positively or tacitly, come to a mutual understanding to accomplish the common and unlawful design charged.

In determining whether or not a conspiracy has been proved in this case, you should inquire into what has been done, the movements of the alleged conspirators, their conduct, their accomplishments, if any, together with 1433 all of the other facts and circumstances adduced in evidence in the case and bearing upon that issue.

Your inquiry should be: First, Did the defendants, or some of them, conspire together to do the unlawful acts charged in the indictment? And, Second, if they did so conspire, Did they thereafter, with the view of carrying out the object of such conspiracy, do one thing set forth as an overt act towards such end? If they did so conspire together and take one or more steps, set forth as overt acts, toward the accomplishment of that unlawful purpose, the offense of conspiracy is complete, even though the object of the conspiracy is never attained.

You will observe that the Government and the grand jury have, in this indictment, charged many overt acts. An overt act means an act done for the purpose of carrying out the design, the unlawful purpose, and it must be done by one or more members of the conspiracy, if it has been

found that there was a conspiracy, and must be of
1434 such a character as appears to you to have been done in order to carry out the unlawful purpose. It is not necessary that you find that all of the overt acts charged were performed, but it is necessary that you find that at least one of the overt acts charged was done, and done with the intent of accomplishing the purpose of the conspiracy, before you would be warranted in finding the defendants, or any of them, guilty under this conspiracy count.

The members of a conspiracy need not necessarily know all of the other members of the conspiracy. Of course, it is necessary that they should know some of the members of the conspiracy, but they need not know or be acquainted with or have knowledge that other members who are later members of the conspiracy were in the conspiracy.

A person may enter a conspiracy after it has been formed and before its final completion and assist in carrying out the conspiracy, and thereby be a part of such conspiracy, even though he was not a member of such conspiracy at the time of its inception.

1435 You have been engaged in your service to society—to all the people of these United States,—for a period of six weeks and four days. You have aroused my admiration because of the care and diligence with which you have attended to your duties under considerable disadvantages. You have been confined to your quarters. You have not been allowed to go about the usual affairs and business of your lives. You have not had the exercise to which you are

accustomed. I know that your service has caused some of you considerable inconvenience, and, more than that, perhaps considerable financial loss.

You are now going to climax this period of service. Collectively, you are going to consider and decide this case. In the final stages of this case you are going to make increased use of your minds. Your minds, you know, are made up of at least two parts, your intellects and your emotions. You all know that. What each one of you should use in these final stages of the case, when you go to your jury room 1436 to consider and decide this case, is your intellect. If

each one of you uses his intellect, putting aside his emotions, then the probability of the verdict which you arrive at collectively being fair and just will be very greatly increased.

You have been told—and I tell you again—that it is your duty to consider this case without prejudice, without fear or favor. It is your duty coolly and calmly to determine the question whether these defendants are or are not guilty. To do that you should use your intellects and not your emotions.

It is not a question of whether you like the defendants or dislike them. If you get over on that ground you almost invariably make a mistake. It is not a question of whether you like or dislike counsel on one side or the other. If you get over on that ground you almost invariably make a mistake. It is not a question of whether you like anybody or dislike anybody. It is just an intellectual question of whether these defendants did or did not do certain things.

That is all you have to decide. If you bear that in 1437 mind and try to do nothing other than just that plain, simple duty of answering the question—Are or are not the defendants guilty under the First Count, under the Second Count, under the Third Count, under the Fourth Count, under the Fifth Count, then your labors are much simplified, the probability of your agreeing is very much increased, and the likelihood of your fittingly crowning your labors, which are worthy of commendation at this moment, is very greatly increased and your service to the Community will be worth while.

You have only one duty to perform, and that duty is to tell the court whether or not these defendants are or are not guilty as charged in the indictment.

Under no circumstance need you consider the matter of

punishment. That is a matter committed to the attention of the Court alone.

You must consider each of the statements which I make to you not merely in itself, but as related to all other points covered by the charge. In other words, you must consider my charge as a whole.

1438 When you go to your jury rooms you will take with you the indictment, the exhibits which have been offered and received in evidence, and four forms of verdict.

The first form which you will take reads as follows: We, the jury, find the defendants, naming them, not guilty as charged in the indictment. If you find all of the defendants not guilty on all of the counts of the indictment, the twelve of you will sign that form and return it into court.

The next form which you will take with you reads as follows: We, the jury, find the defendants, naming them, guilty as charged in the indictment. If you find all of the defendants guilty on all of the counts in the indictment, you will use that form, the twelve of you will sign it, and return it into this court room.

The third form which you will take with you reads as follows: We, the jury, find the defendants William R. Johnson, alias W. R. Johnson, alias Bill Johnson, guilty as charged in the "blank" count of the indictment, and
1439 we find the defendant not guilty as charged in the "blank" count of the indictment. And then a like statement is repeated for each one of the defendants. The next statement relating to Mr. Creighton, the next to Mr. Sommers, the next to Mr. Wait, the next to Mr. Hartigan, the next to Mr. Flanagan, the next to Mr. Kelly, the next to Mr. Mackay, and the last to Mr. Brown.

If you use that form, if this form best suits the conclusion to which you come, use this form, fill in the blanks so that you accurately state on which counts you find each one of the defendants guilty and on which counts you find each one of the defendants not guilty; and let me caution you that after you have made up that form go over it carefully and see that you have disposed of the case as to each defendant on all of the counts.

After you have done that, and if the form then correctly expresses the conclusion at which you have arrived, the twelve of you sign the form and return it with you into court.

The last form which you will take with you reads as

follows: We, the jury, find the defendant "blank"
1440 guilty as charged in the indictment; and we find the
defendant "blank" not guilty as charged in the in-
dictment. If you find one more of the defendants guilty
as charged in the indictment, and if you find one or more
of the defendants not guilty as charged in the indictment,
fill in these blanks indicating which of the defendants you
find guilty and fill in the blanks indicating which of the
defendants you find not guilty. See that you have made a
finding as to all of the defendants. Then if the form cor-
rectly expresses the conclusion to which you have arrived,
the twelve of you sign the form and return it with you into
court.

Are there any suggestions in respect of or objections to
the charges given by the Government?

Mr. Hurley: None.

The Court: By the defendants?

Mr. Thompson: If the Court please, we have no objec-
tion to what your Honor has charged the jury. We have,
of course, made some requests which are not included
1441 in the charge, and want to call attention to those in
this sense—I assume your Honor has before you the
requests?

The Court: I have them all and I tried to cover them all,
Judge, except--

Mr. Thompson: Except those which related to the in-
come tax returns--

The Court: To certain specific items in evidence.

Mr. Thompson: That is right.

The Court: You may have exception to my failure to
give any of the requests which you submitted.

Mr. Thompson: I understood that was to be the rule.

Now, we also object to there being sent to the jury room
those exhibits to which we have objected and moved to
strike from the record.

The Court: That objection will be overruled. What is
the Government's attitude?

Mr. Hurley: Well, my understanding is that all the ex-
hibits should go.

The Court: That is my understanding. Those of them
that have been received in evidence.

Mr. Hurley: Yes.

1442 The Court: You may swear the marshals, Mr.
Clerk.

(Marshals sworn.)

The Court: The alternates may be discharged from further service. The alternates have the thanks of the Court for your service during these weeks.

When you go to your jury room I suggest in order that your procedure may be orderly, that you select a foreman from amongst your number who will act as a moderator over your deliberations. You may depart now with the marshals and consider of your verdict.

Assemble your exhibits, will you, gentlemen, and give them to the marshal.

1443 And thereupon the defendants severally requested the Court to include in his charge to the jury the following instructions, and the Court refused said requests, and the defendants severally excepted to said refusal.

5. The prosecution and each defendant separately considered are entitled to the individual opinion of each juror on the issues of fact in this case. It is the duty of each of you to consider and weigh all the evidence in the case and from such evidence to determine for yourself, if you can, the question of the guilt of each defendant as to each count of the indictment. When you have so determined that question, you should not be influenced in giving your verdict by the mere fact that any number or all of the other jurors may have reached a different conclusion. If, after careful consideration of all the evidence, your mind is fairly made up, and you are convinced you are right, it will be your duty to stand by your decision. But each juror should freely and fairly discuss with his fellow jurors the evidence and the deductions to be justly drawn therefrom. If, after such a full and fair discussion with them, any juror is still satisfied that his decision is right, he is under no duty to change his decision.* But if, after such full and fair discussion, any juror is satisfied that his original decision was wrong, then he should unhesitatingly abandon such decision, and render his verdict according to such final decision. No member of this jury should vote for a conviction of any defendant because of the opinion of another member of this jury so long as he conscientiously entertains a reasonable doubt as to the guilt of such defendant.

8. Where the facts of the case, considering the evidence as a whole, are susceptible of two reasonable interpretations, one pointing toward the guilt and the other toward

the innocence of a defendant, it is your duty to give such facts that interpretation which accords with the innocence of such defendant. If there is any reasonable
1444 hypothesis based upon a fair consideration of the whole evidence in the case upon which you can acquit a defendant, then it is your duty to adopt such hypothesis and to find such defendant not guilty. If, upon a consideration of all the evidence, a reasonable doubt of the guilt of any defendant arises, you must acquit such defendant.

10. The burden of proof is upon the prosecution. This means that the prosecution must prove the offenses charged against each of the defendants, considered separately, and must establish each and every material element of such offenses beyond all reasonable doubt as to each defendant. If the prosecution fails as to any such element as to any defendant, either because there is no evidence supporting such element or because the evidence offered in support thereof does not satisfy you beyond all reasonable doubt as to any defendant, then you should acquit such defendant for the reason that the prosecution has failed to establish his guilt as required by the law.

16. A defendant in a criminal case is not called upon to prove his innocence, nor need he do so in order to secure an acquittal. An acquittal must necessarily occur unless the prosecution has proved the defendant's guilt beyond all reasonable doubt. A mere suspicion, or even a strong probability of the defendant's guilt would not justify conviction. And even should the evidence in your opinion preponderate in favor of the prosecution, this alone would not justify a verdict against any defendant. A mere preponderance of the evidence is not sufficient to warrant a conviction in a criminal cause. Before you can convict you must be satisfied beyond a reasonable doubt that the facts presented in evidence are incompatible with any reasonable theory of the innocence of the accused and incapable of any reasonable hypothesis than that of his guilt. Otherwise, such defendant must be acquitted.

1445 18. Proof in a criminal case may be circumstantial or direct, or both, but there must be proof worthy of credit. Where the evidence is purely circumstantial, the links in the chain of circumstances must be clearly proved, and taken together must point, not to the mere possibility or even probability of participation in the commission of the offense charged but must establish

the fact of the participation beyond a reasonable doubt. The inferences which may reasonably be drawn from the proved circumstances as a whole must not only be consistent with guilt but inconsistent with every reasonable hypothesis of innocence.

22. In the investigation of matters of fact and in the weighing of evidence, the jury have no right to assume the guilt of a defendant, and then try to reconcile the testimony with such theory. It is the sworn duty of the jury to presume the innocence of the defendant and to give him the benefit of such presumption all through the trial and at every stage of the investigation of the evidence in the jury room, until it is overcome, if it is overcome by a fair consideration of all the evidence. To overcome this presumption of innocence, the evidence must not only be consistent with the theory of guilt, but must be inconsistent with, and exclude, every reasonable theory of innocence. As long as the jury are able to reconcile the evidence with any reasonable theory of the innocence of any defendant, separately considered, the law makes it your duty so to do. If, upon a full consideration of all the evidence in the case, you entertain a reasonable doubt as to whether any particular defendant is guilty of the crime charged against him in any count of the indictment, then you should find him not guilty as to such charge.

23. The fact that the defendant, William R. Johnson, derived a large part of his income from gambling 1446 if you believe this to be the fact, must not be considered by you in determining your verdict. The source of the income of said defendant is altogether immaterial. Likewise the fact that the other defendants, except defendant Brown, were engaged in operating gambling houses must not be considered by you as evidence against them. The questions here are whether defendant, William R. Johnson, wilfully filed false income tax returns with the intention to evade payment of taxes imposed by law and whether the other defendants knowingly aided him in such alleged attempted evasion and whether the defendants conspired to commit this offense. The fact that some defendant may have committed some other offense against the laws of the United States or the State of Illinois creates no presumption that such defendant committed the offenses here charged against him. Whatever other offense any defendant may have committed, he is presumed to be innocent of the charges in this indict-

ment until the contrary is shown by evidence beyond a **reasonable doubt**. You are cautioned to dismiss from your minds any view you may have of the occupation of any defendant and confine your consideration to the question of the guilt or innocence of such defendant of the particular offenses charged against him.

26. Under Count One of the indictment it is alleged that defendant William R. Johnson, on March 15, 1937, filed a return of his taxable income for the year 1936, stating that his net income was \$161,892.74, and that he paid a tax thereon of \$72,640.23, and that he should have reported a net income for the year 1936 of \$605,825.64, and that the tax due from him was \$385,316.67; that said defendant wilfully attempted to evade the tax imposed by law upon his taxable income for said year; and that the other defendants knowingly aided said defendant Johnson in his attempt to wilfully evade the tax due for said year. Before defendant Johnson or any other defendant can

be found guilty under Count One, the prosecution 1447 must prove beyond a reasonable doubt that defendant Johnson did in the year 1936 have a taxable income in excess of that returned by him for said year, and that said defendant Johnson did wilfully attempt to evade payment of the tax imposed by law. Proof merely of a deficiency in the tax due from the defendant Johnson in the year 1936, resulting from error or negligence in making his return is not sufficient. The burden is on the prosecution to show by evidence beyond a reasonable doubt not only that defendant Johnson omitted to make a true return for the year 1936 but that the omission was wilful and done with the intention of attempting to evade payment of the tax imposed by law.

Note: Refused requests numbered 27, 28 and 29 were identical with refused request Number 26 except as to dates and amounts, said requests covering Counts Two, Three and Four respectively.

30. The first question that you should determine in this case is, Did the defendant William R. Johnson have a net taxable income in excess of that which he reported in his income tax return for the calendar year of 1936, as charged in the first count of the indictment, for the calendar year 1937 as charged in the second count, for the calendar year 1938 as charged in the third count, or for the calendar year 1939 as charged in the fourth count? If you are not convinced beyond a reasonable doubt that

the defendant William R. Johnson did have a net taxable income in excess of that which he reported in his income tax return for the years 1936, 1937, 1938 and 1939, respectively, you need not consider the case further and your verdict should be "Not guilty" on the first four counts. But if you answer this first question in the affirmative as to one or more years, you must then determine the question whether said defendant wilfully and knowingly understated his taxable income for such year or years, considering each count separately, with the intent to defeat and evade the payment of the tax due and payable upon his net income for such year or years.

1448 31. If the defendant William R. Johnson owes no tax for any of the years involved, the defendants must be acquitted under the first four counts of the indictment because a taxpayer cannot be guilty of attempting to defeat or evade a tax if no tax is due nor can others aid him in doing what was not done.

37. If under the evidence in this case you have a reasonable doubt that any item alleged to be income of the defendant William R. Johnson for the calendar year 1936, or the calendar year 1937, or the calendar year 1938, or the calendar year 1939, upon which evidence has been received, was income of said defendant for such year, then you will disregard such item in determining the question of what the net taxable income of said defendant was in such calendar year. In determining the net taxable income of the defendant Johnson for any year involved, you may take into consideration only such items as have been proved beyond a reasonable doubt to be income of defendant Johnson in that particular year.

38. Neither the mere cashing of checks nor the mere exchanging of currency is evidence of income of the person so cashing or exchanging. Proof of such transactions is evidence merely that the person so cashing said checks or exchanging said currency was engaged in some capacity in transactions involving the amounts of such checks or currency and is a circumstance which may be taken into consideration in determining such person's income.

39. Transactions involving the cashing of checks and the exchanging of currency by the defendant Sommers cannot be considered by you in determining the income of the defendant Johnson in any year unless the evidence received convinces you beyond a reasonable doubt that defendant Johnson was the owner of or had an interest in

said checks or currency. The same is true with respect to the checks cashed or currency exchanged by defendants Creighton, Flanagan, Kelly, Wait and Hartigan. If 1449 upon consideration of all the evidence you have a reasonable doubt that defendant Johnson had an interest in the checks cashed and currency exchanged by the several defendants, then you will give no consideration to such transactions and to the amounts involved therein.

41. Defendants Andrew J. Creighton, Jack Sommers, Edward Wait, James A. Hartigan, John M. Flanagan, William P. Kelly, Reginald E. Mackay and Stuart Solomon Brown are each charged in the first four counts of the indictment with knowingly aiding the defendant William R. Johnson in wilfully attempting to evade the tax imposed by law upon the defendant William R. Johnson on account of his taxable income for the years 1936, 1937, 1938 and 1939, respectively. In considering the charge against such defendants under said counts the case of each defendant must be considered separately as to each count and the burden is on the prosecution as to each such defendant as to each count to show by evidence beyond a reasonable doubt that he knowingly aided in the commission of the particular offense charged. Before any such defendant can be found guilty of so aiding defendant Johnson in any year alleged, the prosecution must prove beyond a reasonable doubt that defendant Johnson did in such year have a taxable income in excess of the amount returned by him for said year and that said defendant Johnson did wilfully attempt to evade payment of the tax imposed by law for said year and that such defendant did knowingly aid or abet said Johnson in such wilful attempt. If the prosecution fails to prove any one of these elements to your satisfaction beyond a reasonable doubt as to any defendant, then you must find such defendant not guilty.

44. In considering Count Five of the indictment you are instructed that a conspiracy does not consist both of the conspiracy and the acts done to effect the object thereof, but of the agreeing and acting together alone. The provision of the statute that there must be an act done to effect the object of the conspiracy before 1450 there can be a conviction under the statute is merely a safeguard requiring a particular degree of proof. Such acts, called overt acts, are not, however, elements of the conspiracy itself and proof of overt acts alone would

not warrant a conviction for conspiracy. The prosecution is required to prove beyond a reasonable doubt not only that an overt act was done, but must also prove beyond a reasonable doubt that the actual unlawful agreement or conspiracy charged existed prior to and at the time of the doing of such act. And so in this case if you find that the prosecution has proved an overt act, but has failed to prove beyond a reasonable doubt the prior unlawful agreement or conspiracy, it will be your duty to bring in a verdict of not guilty as to the fifth count.

46. The mere knowledge of a defendant that others were in a conspiracy to violate the law and even his full sympathy with the object of that conspiracy, without more, would not constitute him a conspirator. There must be proof beyond a reasonable doubt of his active participation in the conspiracy charged.

47. The mere fact that each of the defendants knew all other defendants during the period of time here in question and that they came in contact with each other is not sufficient to support a charge of conspiracy. Several men may be engaged in doing various acts, even of the same general character and in similar fields of activity, by which they may come into contact with each other without becoming conspirators.

49. The existence of a conspiracy cannot be established against an alleged conspirator by evidence of acts or declarations by an alleged co-conspirator done or made in his absence.

50. Before the acts or declarations of an alleged conspirator can be received in evidence against another charged with being a party to a conspiracy, it must be shown by independent evidence that the conspiracy existed at the time the acts were done or the declarations were made and that the accused was then a party to the conspiracy.

51. To be admissible against an accused, the act or declaration of an alleged co-conspirator must itself be an act in furtherance of the common object proved by independent evidence to have been agreed upon.

55. The statement of the defendant Johnson which was made by him on March 27, 1939, is hearsay as to the other defendants and is to be considered by you only in considering the charge against him. No other defendant is bound by such statement made out of the presence of such other defendant and you must dismiss it from your

minds in considering your verdict as to each of the other defendants.

56. The report of the testimony of defendant Brown before the grand jury which returned the indictment in this case was received as to the defendant Brown only. It must not be considered by you as evidence against any other defendant. Any reference made in such testimony to any other defendant must be dismissed from your minds in considering your verdict as to such other defendant. No other defendant is bound by statements of defendant Brown made in his testimony before the grand jury.

57. If you believe from the evidence that defendant Brown referred to the Reserve for Uncollected Funds account on the books of the Lawrence Avenue Currency Exchange, in conversation with the witness Bag-haw, as the Johnson account, you may consider such statement only as to defendant Brown. It is hearsay as to the other defendants and you must dismiss it from your minds in considering your verdict as to the other defendants. Such statement of the defendant Brown, if you believe he made it, must not be considered by you as proof that defendant Johnson had any interest in or connection with such account.

1452 58. Mere narration by an alleged conspirator to a witness respecting acts of or transactions with one accused of being a party to the conspiracy is not admissible against the accused for the reason that it is not an act or declaration in furtherance of the alleged conspiracy.

59. The income tax returns of defendant Sommers for the years 1932, 1933, 1934 and 1935, and all testimony with respect to the contents thereof are to be considered by you only in considering the charge against said defendant. This evidence is not binding on any other defendant and you must dismiss it from your minds in considering your verdict as to each of the other defendants.

60. The income tax returns of defendant Sommers for the years 1936, 1937, 1938 and 1939, and all testimony with respect to the contents thereof are to be considered by you only in considering the charge against said defendant. This evidence is not binding on any other defendant and you must dismiss it from your minds in considering your verdict as to each of the other defendants.

Refused requests numbered 61 to 72 inclusive referred to the income tax returns of defendants Kelly, Mackay,

Flanagan, Hartigan, Creighton and Wait, respectively, and were in substance identical with refused requests 59 and 60 referring to the income tax returns of defendant Sommers.

73. If you find from the evidence that defendant Creighton had a conversation with witness Goldstein in the office of witness Goldstein relative to payment of rent on the property at 9730 South Western Avenue, as witness Goldstein testified, then you will consider such testimony only as to defendant Creighton. Such statement, if you find it was made, was made outside the presence of the other defendants and is hearsay as to them. In considering this case as to each of the other defendants, you must dismiss from your mind all consideration of this conversation, if you find it occurred.

1453 75. The appearance on the customer account records of the Illinois Nation-Wide News Service, being Government Exhibits O-11 to O-15 inclusive, of the name "Johnson" or "Bill Johnson" is not to be considered by you as evidence of any connection of the defendant Johnson with such accounts. Such entries are hearsay as to the defendant Johnson and are to be dismissed from your consideration in arriving at your verdict as to defendant Johnson as to each count of the indictment.

76. In the absence of evidence on the subject, the law presumes that a defendant in a criminal case has a good reputation and he is entitled to the benefit of this presumption in your consideration of the evidence.

77. The evidence of the good reputation of the defendant, William R. Johnson, for truth, honesty and fair dealing, should be considered by you in connection with all the other evidence in the case. Such evidence of good character may be sufficient to raise a reasonable doubt in your minds as to the guilt of said defendant.

78. You should exercise the utmost caution and care not to convict innocent men. The rules as to the presumption of innocence, the burden of proof, the requirement of proof beyond a reasonable doubt, and the duty of the jury to reconcile the evidence with the innocence of the accused, if it can fairly and reasonably do so, are all safeguards that the law throws about an accused on trial charged with a crime, and you should give to each of these defendants, considered separately, the benefit of every such safeguard thus intended to secure him against unjust conviction.

1454 And thereupon the jury having returned a verdict of guilty as to defendants William R. Johnson, Jack Sommers, James A. Hartigan, John M. Flanagan, William P. Kelly and Stuart Solomon Brown, each of said defendants made a motion for a new trial and said several motions having been argued, and the Court having denied said motions, each of said defendants excepted.

And thereupon each of said defendants moved that judgment be arrested as to each defendant under each count of the indictment, and that said defendants be discharged, and the Court having denied said several motions in arrest of judgment, the several defendants excepted.

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S-12—	Money order stub Lawrence Avenue Currency Exchange, to Entry Service, re Horseshoe.	
S-13—	Paid invoice of Entry Service re Horseshoe.	

Numbers.	Description.	Page.
S-14 and S-15—	Paid invoices of Don & Company re Horseshoe.	
S-16A and S-16B—	Paid invoices of O'Neil & Company re Horseshoe.	
S-17A and S-17B—	Paid invoices of Dixie Coal Company, with money order stub attached.	
S-18 and S-19—	Rent receipts re Horseshoe parking lots.	
S-20—	Paid invoice Novak & Company.	
S-21—	Money order stub from Deemar Currency Exchange.	
S-22—	Money order stub from Kedzie "L" Currency Exchange.	
1461 S-23—	Money order stub with telephone bill attached.	
S-24—	Electric bill with money order stub attached.	
S-25—	Money order stub of Lawrence Avenue Currency Exchange to Peoples Gas, with gas bill attached.	
S-26—	Money order stub of Lawrence Avenue Currency Exchange, together with invoice Commonwealth Edison attached.	
S-27—	Lamp purchase contract of Horse-Shoe with Commonwealth Edison.	
S-28A—	Chart showing dates of operation of Horse-Shoe and Dev-Lin clubs.	
S-29A and S-29B—	Records of Wendt & Crone re air-conditioning at Horseshoe Restaurant.	
S-30—	Check of Albert C. Bissell dated 9/15/37 representing loan by Sommers of \$450. showing endorsements of \$125 paid thereon.	
S-31A to S-31D—	Documents used in connection with making Sommers' 1939 income tax return.	
S-36—	Envelope containing pair of Horse-Shoe dice.	
K—	Chart showing dates of operation of D & D Club.	

INDEX OF DEFENDANTS' EXHIBITS REFUSED.

Numbers.	Description.	Page.
S-33—	Copy of indictment returned against Sommers charging him with income from gambling clubs operated by him.	
K-4—	Copy of indictment returned against Kelly charging him with income from gambling club operated by him.	

Entered
Jan. 9,
1941. 1462 And afterwards, to wit, on the 9th day of January
A. D. 1941, being one of the days of the regular
December term of said Court, in the record of proceedings
thereof, in said entitled cause, before the Honorable John
P. Barnes District Judge appears the following entry,
to wit:

1463 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois.

Eastern Division.

Thursday January 9, A. D. 1941.

Present Honorable John P. Barnes, Judge.

United States of America	} No. 32168.
<i>vs.</i>	
William R. Johnson, <i>et al.</i>	

This day come the defendants by their attorneys and enter a motion to settle and sign their Bill of Exceptions which motion is continued to Jan. 13, 1941.

1464 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois,

Eastern Division.

Tuesday January 21. A. D. 1941

Present Honorable John P. Barnes, Judge.

United States of America }
vs. } No. 32168.
William R. Johnson, *et al.* }

This day come the defendants by their attorneys and present their bill of exceptions in two volumes which bill of exceptions is settled, allowed and authenticated, signed and made a part of the record of this cause and said bill of exceptions, assignment of errors and exhibits are certified to the Circuit Court of Appeals.

1465

No. 7500-1.

Entered
Jan. 21.
1941

Appeal to

UNITED STATES CIRCUIT COURT OF APPEALS.

For the Seventh Circuit of the United States.

United States of America } Appeal from District Court
Appellee. } of United States, Northern
District of Illinois, Eastern
vs. } Division.
William R. Johnson, *et al.* }
Appellants. } No. 32168.

ASSIGNMENTS OF ERROR

Defendants William R. Johnson, Jack Sommers, James A. Hartigan, John M. Flanagan, William P. Kelly and

Stuart Solomon Brown, having appealed from the judgment of the United States District Court for the Northern District of Illinois to the United States Circuit Court of Appeals for the Seventh Judicial Circuit, and believing that in the record of the proceedings there is manifest error, each severally makes the following assignments of error which he alleges were committed during the trial:

1. The Court erred in not sustaining defendant Johnson's motion to quash the indictment, and each count thereof. Tr. 45.

2. The Court erred in sustaining the motion to strike the plea in abatement of defendants Sommers, Hartigan, Flanagan, Kelly and Brown. Tr. 46.

3. The Court erred in overruling the demurrers of the several defendants to the indictment and each count thereof. Tr. 45-46.

1466 4. The Court erred in sustaining the motion to strike the plea of the Statute of Limitations as to Count One of the indictment of defendants Sommers, Hartigan, Flanagan, Kelly and others. Tr. 46.

5. The Court erred in overruling exceptions to the defendants to the bill of particulars. Tr. 140.

6. The Court erred in denying the motion of defendant Johnson for a more specific bill of particulars. Tr. 140.

7. The Court erred in denying the motion of defendants to require the United States to answer the special pleas of defendants challenging the legal existence of the grand jury at the time of the return of this indictment. Tr. 45.

8. There is no substantial competent evidence in the record that defendant Johnson wilfully attempted to evade income taxes for the year 1936, as charged in the first count of the indictment.

9. There is no substantial competent evidence in the record that defendant Johnson wilfully attempted to evade income taxes for the year 1937, as charged in the second count of the indictment.

10. There is no substantial competent evidence in the record that defendant Johnson wilfully attempted to evade income taxes for the year 1938, as charged in the third count of the indictment.

11. There is no substantial competent evidence in the record that defendant Johnson wilfully attempted to evade income taxes for the year 1939, as charged in the fourth count of the indictment.

1467 12. There is no substantial competent evidence in the record that defendants Sommers, Hartigan, Flanagan, Kelly and Brown, or any of them, knowingly aided defendant Johnson in wilfully attempting to evade the payment of income taxes for the years 1936, 1937, 1938 and 1939, or for any of such years.

13. The Court erred in receiving in evidence acts done and declarations made by co-defendants outside the presence of defendant Johnson against defendant Johnson as to the first four counts of the indictment.

14. The Court erred in not limiting the evidence of acts done and declarations made by co-defendants outside the presence of defendant Johnson to the fifth count of the indictment as such evidence was received against defendant Johnson.

15. The prejudicial effect of receiving in evidence acts done and declarations made by co-defendants outside the presence of defendant Johnson against defendant Johnson, as to the first four counts of the indictment, could not be and was not prevented by the brief reference to the subject in the Court's charge, to-wit: "Under the first four counts of the indictment, the declarations, statements and conversations of one or more defendants, made out of the presence of the other defendants, are not binding upon any other defendant, and must not be considered by you against any other defendant or defendants." R. 1007.

16. As to the first four counts of the indictment the Court erred in receiving in evidence the following transactions and conversations with and acts done and declarations made by certain defendants outside the presence of other defendants:

(a)--As to all other defendants the conversation between witness Schumacker and defendant Johnson in 1930 relative to termination of Schumacker's employment at the K. and K. Club and the discharge of Schumacker 1468 by Johnson. R. 177.

(b) As to all other defendants the conversation in 1932 between witness Brantman and defendant Johnson relative to the drive being made by the Government for returns from persons with gains from illegal business, (R. 421), and the later conversation between witness Brantman and defendants Johnson and Sommers relative to the same subject (R. 421-422), and Johnson's statement that his name was not to appear on any such returns as the employer. R. 423.

(c) As to all other defendants the conversation in 1934 between witness Brantman and Revenue Agents and defendant Johnson relative to Johnson's not keeping bank accounts and Johnson's statement that he did not want to build up evidence against himself. R. 433.

(d) As to all other defendants the interview between Agent Wilson and defendant Johnson in 1934 respecting Johnson's 1931 income tax return and Johnson's statement to Agent Wilson that he had in cash only \$78,000 at the end of 1931. R. 10.

(e) As to all other defendants the conversation in 1936 between witness Brantman and defendant Johnson relative to Johnson's transfer of his accounting work from Brantman to Radomski. R. 433.

(f) As to all other defendants the conversations in 1936 between witnesses Russell and Glenn Glave and defendant Johnson relative to the Glave claims to Harlem Stables and the settlement of said claims by Johnson. R. 285, 286, 287, 291, 292.

(g) As to the other defendants the conversations in 1936 between witnesses Wadzinski and Kolarik and defendants Johnson and Sommers relative to settlement of claims of the witnesses for wages due from the Glaves and the adjustment of said claims by Johnson. R. 472, 474, 475.

1469 (h) As to all other defendants the conversation in 1935 between witness Atlas and defendant Johnson relative to the installing of a set of books at Lincoln Tavern and the later reports to defendant Wait. R. 305.

(i) As to the other defendants the conversation in 1935 between witness Kehoe and defendants Johnson and Sommers relative to the employment of Kehoe and the assignment of Kehoe by Johnson to work at the Kedzie and Leland bus station. R. 309.

(j) As to the other defendants the conversation in 1938 between witness Kehoe and defendants Johnson and Hartigan relative to the employment of Kehoe and the direction by Johnson to Flanagan to give Kehoe \$10 a week. R. 310.

(k) As to all other defendants the conversation about 1938 between witness Pollack and defendant Johnson relative to a crooked dice dispute at the Dev-Lin and the offer of Johnson to pay Pollack's loss. R. 379, 380.

(l) As to all these defendants the conversation between witness McGlynn and defendant Creighton relative to the

termination of McGlynn's employment and the statement by Creighton that he was "only working" there. R. 193.

(m) As to all these defendants the conversations in 1938 and 1939 between witness Snoddy and defendant Creighton relative to arrangements for cashing checks and for other currency exchange service. R. 511, 512.

(n) As to all other defendants the conversation in 1934 between witness Edman and defendant Sommers relative to cashing checks and other banking service and the explanation of Sommers for not depositing the checks in his bank account. R. 503, 504, 505.

1470 (o) As to defendants Johnson, Flanagan and Brown the conversations in 1936 between witness Marcus and defendant Sommers relative to arrangements for cashing checks and other currency exchange service, (R. 476, 477) and the transactions of Sommers and Maurice Downey with the exchange. R. 477-488, 496-499.

(p) As to all other defendants the conversation in 1937 between witness Bissell and defendant Sommers relative to the loan made by Sommers to Bissell and the statement by Sommers to Bissell that he had to get the approval of the boss to make the loan and that Bill Johnson was the boss. R. 545, 546.

(q) As to all other defendants the conversations in 1936 between witnesses Russell and Glenn Glave and defendant Sommers relative to the Glave claims to Harlem Stables. R. 284, 285, 291.

(r) As to all other defendants the conversations in 1939 between witness Van Spankeren and defendant Sommers relative to an action for gambling losses and the settlement of the claim by Sommers. R. 402, 403.

(s) As to all other defendants the statements of defendant Sommers to the witness Rebman in 1938 that she would have to consult defendant Johnson with respect to raising the limit on the Red and Black game at the Horse-Shoe, (R. 566, 567) and his statement that Johnson settled all controversies arising at the Horse-Shoe. R. 567, 568.

(t) As to all other defendants the statement of defendant Sommers to witness Marcus that he was discontinuing his business with the Albany Park Currency Exchange because a new exchange was being open in "our" building around the corner. R. 477.

(u) As to all other defendants the conversation between witness Hayes and defendant Flanagan, in 1933

relative to the transfer of Hayes from the 4020 Club to the Horse-Shoe Club. R. 295.

1471 (v) As to all other defendants the conversation in 1934 between witness Hayes and defendant Hartigan relative to hot dice and the statement that this game occurred before Hartigan was "working for" Johnson. R. 300-303.

(w) As to all other defendants the conversations in 1938 and 1939 between witness Bagshaw and defendant Brown relating to the opening of a set of books for the Lawrence Avenue Currency Exchange (R. 532) and to the accounts in said books and to the audits of said accounts and to the closing of the exchange. R. 532-539.

(x) As to all these defendants the conversation in 1935 between witness Updyke and witness Brantman relative to the 1934 return of defendant Kelly, Government's Exhibit R-14. R. 706, 707.

(y) As to all these defendants the cashing of checks and the exchanging of currency and other transactions between defendant Creighton and the Mid-City Bank (R. 515-517, 715-721), the Lawrence Avenue Currency Exchange and the Washington Park Currency Exchange R. 621, 510-512.

(z) As to all other defendants the cashing of checks and the exchanging of currency and all other transactions between defendant Flanagan and the Lawndale Currency Exchange. R. 552-554.

(aa) As to all other defendants the cashing of checks and the exchanging of currency and other transactions between defendant Sommers and The Northern Trust Company (R. 503-508, 604, 605), and as to defendants Johnson and Flanagan the cashing of checks and the exchanging of currency and other transactions between defendant Sommers and the Albany Park Currency Exchange (R. 476-488, 496-499) and the Lawrence Avenue Currency Exchange. R. 618, 621.

1472 (bb) As to all other defendants the request for and receipt of \$100 bills by defendant Sommers in connection with the cashing of checks and the exchanging of currency. R. 477-479.

(cc) As to other defendants respectively the request for and receipt of \$100 bills by a co-defendant in connection with the cashing of checks and the exchanging of currency. R. 553, 554, 512, 606.

(dd) As to defendants Johnson, Flanagan, Kelly and

Brown the activities of defendant Sommers at Lincoln Tavern (R. 133, 309, 310, 316) and Harlem Stables. R. 317, 322, 346, 352.

(ee) As to defendants Johnson, Flanagan, Kelly and Brown the activities of defendant Hartigan at the Horse-Shoe (R. 133, 309, 316, 319, 326, 348, 387) and the Dev-Lin. R. 310, 322, 387, 262.

(ff) As to defendants Johnson, Sommers and Brown the activities of defendants Creighton, Hartigan and Kelly at the 4020 Club. R. 294.

(gg) As to all other defendants the expenditures of defendant Johnson as related by witnesses Anderson (R. 92), Alguire (R. 259), Becker (R. 574), Bibow (R. 576), Boras (R. 231), Bulger (R. 328), Cervenka (R. 228), Davis (R. 142), DeBittencourt (R. 232), Fisher (R. 144), Goldberg (R. 140), Goldstein (R. 55-62), Grushkin (R. 40), Hardin (R. 308), Huffman (R. 259), Huston (R. 260), Kerr (R. 143), Kling (R. 230), Kilpatrick (R. 34), Leichsenring (R. 261), Nadherny (R. 78, 81, 84), Nechin (R. 313), Paulsen (R. 145), Reedy (R. 170), Shaw (R. 49-51), Star (R. 168), Schafer (R. 274), Shelly (R. 69), Tavalin (R. 12, 13, 15), Wheeler (R. 45, 392, 393), Woltz (R. 36), and Yaseen. R. 90.

17. The Court erred in receiving in evidence against defendant Johnson as to the first four counts the income tax returns of the alleged aiders and abettors (Gov. Ex. R. 14-19, R. 24-28, R. 35-42, R. 44-49, R. 52-57, R. 108, R. 58-64, R. 81-85) and the declarations, acts and omissions of such alleged aiders and abettors in connection with the 1473 preparation, filing and auditing of their several income tax returns. R. 421-429, 94-96, 767-772, 706, 707, 710, 711, 714, 715, 464, 465, 470.

18. As to the first four counts the Court erred in receiving in evidence against other defendants respectively the income tax returns of co-defendants, to-wit:

(a) As to all these defendants the income tax returns of defendant Johnson for the years 1932 to 1935 inclusive, Government's Exhibits R-6 to R-9.

(b) As to defendants Sommers, Flanagan, Hartigan, Kelly and Brown, the income tax returns of defendant Johnson (Government's Exhibits R-6 to R-13) and the declarations, acts and omissions of defendant Johnson in connection with the preparation, filing and auditing of his several income tax returns (R. 419, 421, 429, 430, 93, 94, 412, 413), and the tax assessment lists relating thereto, Government's Exhibits R-86 to R-106.

(c) As to defendants Johnson, Hartigan, Flanagan, Kelly and Brown, the income tax returns of defendant Sommers (Government's Exhibits R-35 to R-42) and the declarations, acts and omissions of defendant Sommers in connection with the preparation, filing and auditing of his several income tax returns. R. 421-423, 96, 470.

(d) As to defendants Johnson, Sommers, Hartigan, Kelly and Brown, the income tax returns of defendant Flanagan (Government's Exhibits R-44 to R-49) and the declarations, acts and omissions of defendant Flanagan in connection with the preparation, filing and auditing of his several income tax returns. R. 425, 426, 428, 94, 95, 711.

(e) As to defendants Johnson, Sommers, Hartigan, Flanagan and Brown, the income tax returns of defendant Kelly (Government's Exhibits R-14 to R-19) and the declarations, acts and omissions of defendant Kelly in connection with the preparation, filing and auditing of his several income tax returns. R. 423, 424, 96, 767, 768, 706, 707.

1474 (f) As to defendants Johnson, Sommers, Flanagan, Kelly and Brown, the income tax returns of defendant Hartigan (Government's Exhibits R-52 to R-57) and the declarations, acts and omissions of defendant Hartigan in connection with the preparation, filing and auditing of his several income tax returns. R. 424, 425, 95, 710, 711, 464, 465.

(g) As to all these defendants the income tax returns of defendants Wait (Government's Exhibits R-81 to R-85), Creighton (Government's Exhibits R-58 to R-64), Mackay (Government's Exhibits R-24 to R-28), and the declarations, acts and omissions of defendants Wait, Creighton and Mackay in connection with the preparation, filing and auditing of their several income tax returns.

19. The Court erred in refusing to give to the jury requested Instruction 59,—“The income tax returns of defendant Sommers for the years 1932, 1933, 1934 and 1935, and all testimony with respect to the contents thereof, are to be considered by you only in considering the charges against said defendant. This evidence is not binding on any other defendant and you must dismiss it from your minds in considering your verdict as to each of the other defendants.” R. 1031.

20. The Court erred in refusing to give to the jury Instruction 60,—“The income tax returns of defendant Sommers for the years 1936, 1937, 1938 and 1939, and all testi-

mony with respect to the contents thereof, are to be considered by you only in considering the charges against said defendant. This evidence is not binding on any other defendant and you must dismiss it from your minds in considering your verdict as to each of the other defendants." R. 1031.

21. The Court erred in refusing to give to the jury requested Instructions 61 and 62 relating to the returns of defendant Kelly, 65 and 66 relating to the returns of defendant Flanagan, 67 and 68 relating to the returns of defendant Hartigan, 63 and 64 relating to the returns of defendant Mackay, 69 and 70 relating to the returns of 1475 defendant Creighton, and 71 and 72 relating to the returns of defendant Wait, which were respectively the same in substance as requested Instructions 59 and 60 relating to the returns of defendant Sommers. R. 1031, 1032.

22. The Court erred in receiving in evidence, in violation of Section 19 of Chapter 110½ of Illinois Statutes, the confidential communications of these defendants made to Brantman, a public accountant, in connection with the preparation of their income tax returns. R. 425, 427, 428.

23. The Court erred in receiving in evidence against defendant Johnson, under the first four counts, the acts and declarations of the several co-defendants outside the presence of defendant Johnson in connection with the exchange of currency and cashing of checks by such co-defendants, in the absence of any competent evidence under the first four counts showing that defendant Johnson had any interest in said currency or said checks or that he received any of said currency or proceeds of said checks. (R. Same as cited under assignment 16Y to 16 CC.)

24. The Court erred in receiving in evidence against defendant Johnson, under the first four counts, the acts and declarations of the several co-defendants outside the presence of defendant Johnson in connection with the operation of their respective gambling houses and respecting the destruction of records of transactions in said gambling houses. R. 767, 768, 374, 824-827, 873-874, 886, 901, 941, 355, 298, 174, 342.

25. The Court erred in receiving in evidence, against all these defendants, as to the first four counts, the testimony of witness O'Neil relative to sales and delivery of gamblers' supplies to John Morgan at 3971 Milwaukee Avenue, in the

absence of proof connecting any of these defendants with said transactions. R. 729-732.

1476 26. There is no substantial competent evidence in the record that any of these defendants conspired and confederated with any other defendant or any other person to commit offenses against the United States, as charged in the fifth count of the indictment.

27. The Court erred in receiving in evidence, under the fifth count, the acts done and the declarations made by co-defendants and other alleged conspirators, out of the presence of the particular defendant against whom such evidence was received, which are detailed under assignment 16, in the absence of proof by independent evidence of the existence of a conspiracy in which such defendant was a participant at the time said acts were done or said declarations were made.

28. The Court erred in receiving in evidence against these defendants, or some of them, declarations and acts of alleged co-conspirators made or done outside the presence of such defendants which were not in furtherance of the alleged common object, to-wit:

(a) Conversation between witness Schumacker and defendant Johnson in 1930 relative to termination of Schumacker's employment at the K. and K. Club and the discharge of Schumacker by Johnson. R. 177.

(b) Interview between defendant Johnson and government agents in 1932 relative to Johnson's 1929 return and his statements about his interest in gambling houses. R. 996-8.

(c) Conversation between witness Lenz and defendant Johnson in 1935 relative to Flanagan's rate for racing news service. R. 151, 152.

(d) Statement of defendant Johnson in Nationwide office in 1938 that consideration should be given to the fact that he had side games in his gambling houses in fixing rate for service to his horse book. R. 157.

1477 (e) Conversations between witness Wendt and defendant Sommers in 1938 relative to air-conditioning contract at Bon-Air and deduction by Sommers of \$700 from collection for job to cover Wendt debt. R. 121, 123.

(f) Conversation between witness Van Spankeren and defendant Sommers relative to action for gambling losses and settlement of claim by Sommers. R. 402, 403.

(g) Failure of defendant Brown to keep his appointment with agent Clifford in November, 1939. R. 739.

(h) Purchases and improvement of various properties by defendant Johnson. R. 59, 60, 11, 12, 13, 40, 239.

(i) Conversations in 1936 between defendant Johnson and the Glaves relative to their claims to stock and furnishings at Harlem Stables and the settlement of their claim by Johnson. R. 285-287, 291, 292.

29. The Court erred in receiving in evidence, against these defendants, or some of them, statements of alleged co-conspirators made outside the presence of such defendants, which were mere narration and not acts in furtherance of the alleged common object, to-wit:

(a) The interview between Agents Sommers and Clifford and defendants Wait and Johnson November 3, 1939, and the statements of Johnson that he owned 9730 Western and Bon-Air Country Club. R. 737, 118.

(b) The telephone interview between Agent Clifford and one Brown November 1, 1939, and the statement of said Brown that he had destroyed the records of the Lawrence Avenue Currency Exchange. R. 739.

(c) The interviews between Agent Ruggaber and defendant Wait in 1940, and the statement of Wait that he did not receive all of the proceeds of Laemmle's checks and could not state who did. R. 768-772.

1478 (d) The statement of defendant Johnson to Government Agents March 27, 1939. Government's Exhibit O-207. R. 410-418.

(e) The statement of defendant Sommers to Government Agents December 29, 1939. Government's Exhibit O-210. R. 467-471.

(f) The statement of defendant Kelly to Government Agents January 3, 1940. Government's Exhibit O-208. R. 458-460.

(g) The statement of defendant Hartigan to Government Agents December 28, 1939. Government's Exhibit O-209. R. 462-467.

(h) The statement of defendant Brown to the Grand Jury January 10, 1940. Government's Exhibit O-211. R. 614-692, 531.

(i) The statements of defendant Brown to witness Bagshaw relative to the accounts of the Lawrence Avenue Currency Exchange. R. 532-539.

30. The Court erred in receiving in evidence against these defendants respectively books of Nationwide News Service, Inc. relating to transactions of particular defendants but containing prejudicial entries and notations re-

garding other defendants which were no part of the records of transactions with such other defendants, to-wit:

(a) Government's Exhibit O-11, showing several hundred customers' accounts for 1934 not in any way identified with defendant Johnson, includes accounts labeled, "W. Johnson, 1613 E. 53rd St." and "W. Johnson, #2, 162 N. State St."; and, though not identified with defendant Hartigan, includes the account, "J. Flanagan, 2141 S. Crawford Ave." on which is typed "Also pays for Hartigan" and the account, "Hartigan, 7506 Saginaw Ave." on which is written in red ink, "Cr. given Flan." R. 167.

1479 (b) Government's Exhibit O-12, showing several hundred customers' accounts for 1935 not in any way identified with defendant Johnson, includes accounts labeled, "W. Johnson 5306 Cornell" and "W. Johnson #2 162 N. State St.", and also includes an account labeled "Lincoln Tavern" on which is written in ink "to Bill Johnson's Book", and an account labeled "Meade, 6825 Milwaukee Ave." on which is written in ink "to Bill Johnson's Book". R. 167.

(c) Government's Exhibit O-13, showing several hundred customers' accounts for 1936 not in any way identified with defendant Johnson, includes an account labeled "W. Johnson 1641 E 53rd St.", and another, "Flanagan (Bill Johnson) 2141 S Crawford Ave.", and, though not identified with defendant Kelly, includes an account labeled "W. Kelly 1019 E. 43rd". R. 167.

(d) Government's Exhibit O-14, showing several hundred customers' accounts for 1937 not in any way identified with defendant Johnson, includes an account labeled "W. Johnson 1641 E 53rd", and another, "Flanagan (Bill Johnson) 2141 S Crawford Ave.", and, though not identified with defendant Kelly, includes an account labeled "W. Kelly 1023 E 43rd St" R. 167.

(e) Government's Exhibit O-15, showing several hundred customers' accounts for 1938 not in any way identified with defendant Johnson, includes an account labeled "Flanagan (Johnson) 4715 Irv Pk". R. 167.

31. The Court erred in receiving in evidence details of the operation of gambling houses and losses of patrons of such gambling houses and other similar matter which was prejudicial to these defendants and confusing to the jury, to-wit:

(a) The experiences of witness Blake in being frisked as he entered the Southland Club (R. 216), his detailed

description of the arrangement of the club (R. 217), 1480 his conversation with defendant Creighton opposing the opening of the Club Western (R. 217, 218), the relation of his experiences as a gambler (R. 218), and the checks representing gambling transactions. Government's Exhibits X-1 to X-138. R. 219.

(b) The testimony of witness Bissell respecting his losses in gambling houses (R. 545, 546) and the checks respecting gambling transactions. Government's Exhibits X-200 to X-207. R. 547, 551.

(c) The testimony of witness Van Spankeren respecting his losses in gambling houses and the settlement made with him by defendant Sommers. R. 401-403.

(d) The testimony of witness Kauders respecting his losses in gambling houses. R. 405, 406.

(e) The testimony of witnesses Anderson (R. 130), Cobb (R. 355) and Cregar (R. 136) as to the details of their duties as shills; the testimony of witnesses Cusack (R. 248, 249), Lynch (R. 281, 282) and Ogren (R. 330, 331) as to their duties as cashiers; the testimony of witnesses Ellis (R. 280), Hayes (R. 298, 299) and Schumacker (R. 178) as to the details of their duties as sheet-writers; and the testimony of witnesses Baker (R. 132-134), Cobb (R. 349, 350, 352, 355), Corbin (R. 389, 390), Didier (R. 225), Hayes (R. 299, 300), O'Leary (R. 342, 343), Schumacker (R. 174-176, 178-182), and scores of others, as to the details of gambling house operations.

(f) The testimony of witnesses Anderson (R. 128, 129, 131), Schmidt (R. 336-7) and Schultz (R. 235-240) as to the details of construction work done at various gambling houses.

(g) The cross-examination by the Court of witnesses Rebman (R. 573) and Pfingsten (R. 853) and defendant Sommers (R. 845-847) as to immaterial matters relating to gambling.

1481 32. The Court erred in receiving in evidence under the fifth count, against the other defendants, declarations made and acts done by a co-defendant outside the presence of said defendants respectively in connection with the exchange of currency and cashing of checks without proof of the connection of such other defendants with said transactions or any interest of such other defendants in such currency or proceeds of checks. (R. Same as 16Y to 16CC.)

33. The Court erred in receiving in evidence under the

fifth count, against the other defendants, declarations made and acts done by a co-defendant outside the presence of such defendants respectively in connection with the operation of their respective gambling houses and respecting the destruction of records of transactions in said gambling houses. (R. Same as assignment 24.)

34. The Court erred in receiving the testimony of Glenn Glave and Russell Glave that they were the owners of Harlem Stables in August 1936 and that they had in said premises furniture, liquors and other property of a value of \$3,500 (R. 286, 287, 290), and that defendants Johnson and Sommers took possession of Harlem Stables without the owners' consent and without paying for the property (R. 284, 285, 291), thereby prejudicing all defendants by this proof of gangster methods shown by other proof to be wholly false. R. 804, 805-807, 813, 953.

35. The Court erred in failing to instruct the jury that neither the cashing of checks nor the exchanging of currency by some of co-defendants was evidence of the income of defendant Johnson without proof that defendant Johnson was the owner of or had an interest in said checks or currency. (Requested Instructions 38, 39, R. 1028.)

36. The Court erred in refusing to give to the jury requested Instruction 38 (R. 1028), requested Instruction 39 (R. 1028), requested Instruction 49 (R. 1030), requested Instruction 50 (R. 1030), requested Instruction 51 (R. 1031), requested Instruction 55 (R. 1030), requested Instruction 56 (R. 1031), requested Instruction 57 (R. 1031), requested Instruction 58 (R. 1031), requested Instruction 73 (R. 1032), and requested Instruction 75 (R. 1032).

37. The instruction given by the Court, to-wit: "The statement of the defendant Brown to the witness Clifford that he, Brown, destroyed the records of the Lawrence Avenue Currency Exchange, if it was made, is admissible only against the defendant Brown". (R. 1007) did not point out to the jury that such statement was hearsay as to the other defendants and was not to be considered by the jury in considering the charges against the other defendants, and the prejudicial effect of receiving this testimony was not cured by said instruction.

38. The Court erred in overruling the objection of defendants to the testimony of witness Bagshaw to the effect that defendant Brown referred to the Reserve for Uncollected Funds account on the books of the Lawrence Avenue Currency Exchange as the Johnson account. R. 536.

39. The Court erred in sending to the jury room a great mass of documents received in evidence which contained statements and entries having no bearing on the issues in this case and which were not connected with these defendants respectively by any competent evidence, to-wit:

(a) Government's Exhibits E-15 to E-20, being carbon copies of monthly statements from General Mortgage Investments to defendant Johnson relating to Lincoln Park Building transactions, in no way connected with defendants Sommers, Flanagan, Hartigan and Brown. R. 29, 30.

(b) Same as Government's Exhibits E-22 to E-26, relating to Thorndale-Glenwood Apartments transactions. R. 30, 31.

(c) Government's Exhibit E-9 (five sheets), being ledger accounts of General Mortgage Investments showing transactions with syndicate members, including defendant Johnson but not including any other defendant, respecting Lincoln Park Building. R. 29, 32.

1483 (d) Government's Exhibit E-12, being ledger account of First Management Corporation showing transactions with syndicate members, including defendant Johnson but not including any other defendant, respecting the Lincoln Park Building. R. 36.

(e) Government's Exhibit E-14, being an air-conditioning contract with defendant Johnson and in no way connected with defendants Sommers, Flanagan, Hartigan and Brown. R. 45.

(f) Government's Exhibits E-46 to E-53, being the Bon-Air Catering Company books in no way connected with defendants Sommers, Flanagan, Kelly and Brown and hearsay as to all these defendants. R. 52, 53.

(g) Government's Exhibits E-54 to E-66, being auditors' reports and working papers relating to Bon-Air Catering Company audits and in no way connected with defendants Sommers, Flanagan, Kelly and Brown and hearsay as to all these defendants. R. 53, 612, 613.

(h) Government's Exhibits E-27 to E-39, being Chicago Title & Trust Company escrow files in no way connected with any defendant except Johnson. R. 69-72, 521-523.

(i) Government's Exhibits E-71, E-72, E-77, E-78, E-81 to E-95, E-97 to E-100, E-102 and X-208-A to F, being receipted bills for materials and labor for Bon-Air Country Club, which are a duplication of the testimony of witnesses and in no way connected with any defendant except

Johnson. R. 91, 93, 144, 232, 259, 148, 127, 140, 141, 228, 229, 142, 143, 169, 260, 173, 315, 261, 395, 727.

(j) Government's Exhibits O-31 to O-127 and T-4 to T-36, being telephone company records relating to services rendered certain defendants and in no way connected with defendants Johnson and Brown or with other defendants not named on the respective exhibits. R. 208, 704-706.

1484 (k) Government's Exhibits O-128 to O-134, O-136, O-138, O-140 to O-145, O-147 to O-151, O-153, O-155, O-157 to O-159, O-162, O-163, O-166 to O-173, and O-176 to O-182 being receipted transfer bills for service rendered by Jungwirth for certain defendants and in no way connected with defendants Johnson, Flanagan and Brown. R. 271.

(l) Government's Exhibits O-191 to O-201, being records of Hollander for service rendered defendants Sommers and Hartigan and in no way connected with defendants Johnson, Flanagan, Kelly and Brown. R. 345.

(m) Government's Exhibits X-139 to X-164, being Albany Park Currency Exchange records in no way connected with defendants Johnson, Flanagan and Brown and only indirectly connected with defendants Kelly and Hartigan. R. 499, 506.

(n) Government's Exhibit X-191, being deposit tickets showing transactions between Albany Park Currency Exchange and Milwaukee Avenue Bank, with which defendants Johnson, Flanagan and Brown had no connection and with which defendants Sommers, Hartigan and Kelly were remotely connected as patrons of the exchange. R. 502, 503.

(o) Government's Exhibits X-170 and X-171, being records showing transactions between Northern Trust Company and defendant Sommers, with which defendants Johnson, Flanagan, Hartigan, Kelly and Brown had no connection. R. 510.

(p) Government's Exhibits X-186 to X-190, being records showing transactions between Mid-City National Bank and defendant Creighton, with which these defendants had no connection. R. 519-521.

(q) Government's Exhibits X-195 and X-196, being records of the Lawrence Avenue Currency Exchange, with which defendants Johnson and Flanagan had no connection. R. 530.

1485 (r) The group of Government exhibits under X-172, X-173 and X-174, being memoranda on the backs of checks showing shipments of \$100 bills to the Lawndale

Currency Exchange, with which defendants Johnson, Sommers, Hartigan, Kelly and Brown had no connection and with which defendant Flanagan was only inferentially connected. R. 565, 566.

(s) Government's Exhibits X-182 to X-185-R, being records of the North Shore National Bank showing transactions with the Lawrence Avenue Currency Exchange, with which defendants Johnson and Flanagan had no connection and with which defendants Sommers, Hartigan and Kelly were remotely connected as patrons of the exchange. R. 579-581.

(t) Government's Exhibits X-178 and X-179 and the group under X-180, being records of the Central National Bank showing transactions with the Lawrence Avenue Currency Exchange, with which defendants Johnson and Flanagan had no connection and with which defendants Sommers, Hartigan and Kelly were remotely connected as patrons of the Exchange. R. 609, 610, 735.

(u) Government's Exhibits X-238 to X-251, being checks cashed by defendant Creighton and not connected with any of these defendants. R. 721.

(v) The group of Government exhibits under O-212 to O-218, being records of E. M. O'Neil & Company showing deliveries to one Morgan and not connected with these defendants. R. 734.

(w) Government's Exhibit O-219 to O-227, being the Laemmle checks which are not connected with defendants Johnson, Flanagan, Hartigan and Kelly. R. 773, 774.

40. The Court erred in permitting improper cross-examination of defendants on immaterial and collateral matters, to-wit:

1486 (a) Cross-examination of Sommers as to details of his income tax returns for 1932 and thereafter. R. 829-832.

(b) Cross-examination of Sommers as to details of operating a gambling house and destroying of records of gambling transactions. R. 825-829.

(c) Cross-examination of Creighton as to details of his income tax returns for 1932 and thereafter. R. 876, 877.

(d) Cross-examination of Kelly as to details of his income tax returns for 1934 and thereafter. R. 887-889.

(e) Cross-examination of Wait respecting the opening and operating of the Lawndale Kennel Club in 1927 and operating relations and financial arrangements between it and Hawthorne in 1928 and thereafter. R. 903, 904.

(f) Cross-examination of Wait as to details of his income tax returns. R. 909, 910.

(g) Cross-examination of Wait relative to his gambling with Laemmle in 1936. R. 908, 909.

(h) Cross-examination of Wait relative to his relations with Skidmore and as to whether Skidmore was the fixer for gamblers of Chicago. R. 913, 914.

(i) Cross-examination of Johnson respecting the opening and operating of the Lawndale Kennel Club in 1927 and operating relations and financial arrangements between it and Hawthorne in 1928 and thereafter.

(j) Cross-examination of Johnson relative to whether Skidmore was the fixer for Chicago gamblers and statement of prosecuting attorney that he could prove if necessary that gamblers and bookmakers lined up at Skidmore's office to pay their protection money. R. 965, 966.

1487 (k) Cross-examination of Johnson relative to arrangements for official protection in Lake County and suggestion of bribery of sheriff to permit operation of Bon-Air. R. 967-969.

(l) Cross-examination of Johnson relative to ownership and operation of Waukegan Post. R. 967.

(m) Cross-examination of Johnson relative to arrangements for official protection in Cook County and suggestion of bribery of the Chief of the County Police to permit operation of Club Western. R. 975, 976.

(n) Cross-examination of Johnson relative to organization and ownership of E. M. O'Neil & Company, a corporation dealing in gambling paraphernalia. R. 980, 981.

(o) Cross-examination of Johnson on the subject of filing a partnership return re income from properties of which he and Skidmore were joint owners. R. 983.

(p) Cross-examination of Johnson relative to statement made by him to Government agents in 1932 concerning his operation of gambling houses in 1929. R. 987-989.

41. The Court erred in permitting cross-examination of defendant Johnson implying that he was guilty of bribing public officials. R. 975, 976, 966-969.

42. The Court erred in examining witnesses indicating a lack of belief in the testimony of the witnesses or treating lightly or diverting the attention of the jury from the material testimony of the witnesses, to-wit:

(a) Examination of witness Pfingsten relative to knowledge of use of leased premises and whether public liability

insurance covering liability from use for gambling purposes was carried. R. 853.

1488 (b) Examination of witness Hare implying that he had not told the truth. R. 915, 916.

(c) Examination of witness Rebman as to mysteries of the game of Red and Black. R. 573.

(d) Examination of defendant Sommers as to percentage in roulette against player and in favor of the house. R. 845-847.

43. The Court erred in permitting the prosecuting attorneys to state repeatedly in the presence of the jury that offered evidence would be connected up, when objection to receiving such evidence was made by defendants, (R. 9-10, 50-51, 70, 91, 99-100, 111-114, 117, 138, 174, 176, 293, 421), and in acting upon such promises without question, (R. 9-10, 51, 70-71, 91, 101, 111-114, 118, 138, 174, 176, 294, 421), and in stating in the presence of the jury that the offer of defendants' attorneys to connect up evidence meant nothing to the Court without a definite undertaking (R. 930), and in peremptorily striking evidence of defendants when connection was not immediately made. R. 924.

44. The Court erred in permitting cross-examination of defendants (R. 912, 945, 965) and the direct examination of Agent Sloan (R. 777-780) relative to the whereabouts of certain persons, thereby implying that these defendants were secreting witnesses.

45. The Court erred in receiving the testimony of the witness Huebsch in rebuttal of testimony of defendant Johnson respecting statements made by Johnson in 1932 as to his connection with the gambling house at 2141 South Crawford and other gambling houses in Chicago in 1929. R. 996-998.

46. The Court erred in refusing to allow defendant Johnson's attorney to see the purported 1932 statement of defendant Johnson from which the prosecuting attorney read questions and answers as a foundation for the impeaching testimony of the witness Huebsch, which statement the prosecuting attorney used in the presence of the jury in the course of his cross-examination of defendant Johnson. R. 989.

47. The Court erred in receiving the testimony of the witness Ross in rebuttal of the testimony of defendant Wait with respect to the place where defendant Wait gambled with Carl Laemmle in May 1936. R. 999, 1000.

48. The Court erred in not receiving in evidence the

indictment against the defendant Sommers, defendants' Exhibit S-33, in which the grand jury that returned this indictment charged defendant Sommers individually with the income which it is here charged was the income of defendant Johnson. R. 842, 843.

49. The Court erred in not receiving in evidence the indictment against the defendant Kelly, defendants' Exhibit K-4, in which the grand jury that returned this indictment charged defendant Kelly individually with the income which it is here charged was the income of defendant Johnson. R. 880.

50. The Court erred in permitting the witness Lawrason to give a summary of Recordak films with no opportunity to defendants to cross-examine intelligently because the films were illegible and no proper foundation was laid for receiving them in evidence. R. 715-721.

51. The receipt in evidence of the Recordak films and the summary of what Agent Lawrason said he learned from them, by an examination out of the presence of the defendants and the jury requiring several weeks of time, was a violation of the constitutional right of the defendants to be confronted with witnesses and to be represented by counsel in making their defense. R. 519-521, 715-721.

1490 52. The Court erred in permitting witness Clifford to answer an improper hypothetical question and in refusing to strike his testimony which was an invasion of the province of the jury. R. 740-745, 762.

53. The Court erred in receiving in evidence against all other defendants witness Clifford's computations of income and expenditures of defendant Johnson. R. 740-745.

54. The Court erred in refusing to give to the jury requested Instruction 5, (R. 1024), requested Instruction 8, (R. 1024-5), requested Instruction 10, (R. 1025), requested Instruction 16, (R. 1025), requested Instruction 18, (R. 1025-6), requested Instruction 22, (R. 1026), requested Instruction 23, (R. 1026-7), requested Instruction 26, (R. 1027), requested Instructions 27, 28 and 29, (R. 1027), requested Instruction 30, (R. 1027-8), requested Instruction 31, (R. 1028), requested Instruction 37, (R. 1028), requested Instruction 41, (R. 1029), requested Instruction 44, (R. 1029-30), requested Instruction 46, (R. 1030), requested Instruction 47, (R. 1030), and requested Instruction 78, (R. 1032).

55. The Court erred in sending to the jury on their retirement written statements (depositions) of certain de-

fendants, thereby placing undue emphasis upon a statement received only as to the defendant making it but containing hearsay matter with respect to other defendants, to-wit:

(a) The statement of defendant Johnson, Government's Exhibit O-207, which contained statements relating to defendants Flanagan and Kelly. R. 410, 1023.

(b) The statement of defendant Sommers, Government's Exhibit O-210, which contained statements relating to defendants Johnson, Hartigan and Brown. R. 462, 1023.

1491 (c) The statement of defendant Kelly, Government's Exhibit O-208, which contained statements relating to defendants Johnson and Hartigan. R. 458, 1023.

(d) The statement of defendant Hartigan, Government's Exhibit O-209, which contained statements relating to defendants Johnson, Sommers and Brown. R. 462, 1023.

(e) The grand jury testimony of defendant Brown, Government's Exhibit O-211, which contained statements relating to defendants Johnson, Hartigan, Sommers, and Kelly. R. 614, 1023.

56. The Court erred in sending to the jury the income tax returns of defendants other than those of defendant Johnson for the years 1936, 1937, 1938 and 1939. R. 1023.

57. The Court erred in sending to the jury the five books of account of Nationwide News Service, each consisting of several hundred separate customers' accounts in no way identified by the testimony of any witness with defendants Sommers, Kelly, Hartigan or Brown. R. 1023.

58. The Court erred in sending to the jury the five books of account of Nationwide News Service, each containing several hundred separate customers' accounts in no way identified with defendant Johnson by the testimony of any witness and some customers' accounts having written thereon with pen and ink memoranda referring to "Bill Johnson," without proof of who wrote the memoranda or when they were written or to whom they referred, or other foundation facts. R. 1023.

59. The Court erred in sending to the jury several boxes containing several hundred Recordak films which were illegible and were hearsay as to the several defendants and in no way connected with them or any of them or with any transaction with which they were or any of them was identified by testimony of any witness. R. 1023.

1492 60. The Court erred in sending to the jury the books of account of Bon-Air Catering Company and

auditors' reports and working papers relating thereto, which were hearsay as to defendants Sommers, Flanagan, Kelly and Brown. R. 1023.

61. The Court erred in sending to the jury the numerous suppliers' accounts with Bon-Air Catering Company and with Lightning Construction Company which were hearsay as to defendants Sommers, Flanagan, Kelly and Brown. R. 1023.

62. The Court erred in sending to the jury the General Mortgage Company accounts with and reports to defendant Johnson which were hearsay as to defendants Sommers, Flanagan, Hartigan and Brown. R. 1023.

63. The Court erred in sending to the jury the Chicago Title & Trust Company records relating to transactions with defendant Johnson which were hearsay as to all other defendants. R. 1023.

64. The Court erred in sending to the jury the map of Chicago with locations of many gambling houses marked by thumb tacks, Government's Exhibit O-1, which was hearsay as to defendants Johnson and Brown, and except as to their respective houses hearsay as to other defendants. R. 1023.

65. The Court erred in sending to the jury records of the Lawrence Avenue Currency Exchange which were hearsay as to defendants Johnson and Flanagan, and with which defendants Sommers, Hartigan and Kelly had no relation except as patrons of the exchange. R. 1023.

66. The Court erred in sending to the jury records of the Albany Park Currency Exchange which were hearsay as to defendants Johnson, Flanagan and Brown, and with which defendants Sommers, Hartigan and Kelly had no relation except as patrons of the exchange. R. 1023.

1493 67. The Court erred in sending to the jury records of the Lawndale Currency Exchange which were hearsay as to defendants Johnson, Sommers, Kelly, Hartigan and Brown, and with which defendant Flanagan had no relation except as a patron of the exchange. R. 1023.

68. The Court erred in sending to the jury records of the North Shore Bank which were hearsay as to defendants Johnson and Flanagan, and with which defendants Sommers, Hartigan and Kelly had no relation except as patrons of the Lawrence Avenue Currency Exchange. R. 1023.

69. The Court erred in sending to the jury records of the Mid-City Bank which were hearsay as to all these defendants. R. 1023.

70. The Court erred in sending to the jury records of the

Federal Reserve Bank which were hearsay as to all these defendants. R. 1023.

71. The Court erred in sending to the jury records of the Northern Trust Company which were hearsay as to defendants Johnson, Flanagan, Kelly, Hartigan and Brown, and with which defendant Sommers had no relation except as a patron of the Bank. R. 1023.

72. The Court erred in sending to the jury records of the Illinois Bell Telephone Company which were hearsay as to defendants Johnson and Brown, and, except as to their respective telephones, to all the rest of these defendants. R. 1023.

73. The Court erred in sending to the jury the Laemmle checks which were hearsay as to defendants Johnson, Flanagan, Kelly and Hartigan, and to defendant Sommers, except his act in cashing them for Wait. R. 1023.

74. The Court erred in sending to the jury the Bissell checks which were hearsay as to defendants Johnson, Flanagan, Kelly and Hartigan, and with which defendant 1494 Brown had no connection except to cash them for Sommers. R. 1023.

75. The Court erred in sending to the jury the Blake checks which were hearsay as to all these defendants. R. 1023.

76. The Court erred in denying defendants' motion to withdraw a juror and to declare a mistrial on account of improper cross-examination of the defendants and the prejudicial remarks of the prosecuting attorney, to-wit:

(a) Insinuation that defendants Johnson and Sommers muscled the Graves out of the Harlem Stables and stole their stock and fixtures. R. 284-285, 290-291.

(b) Insinuation that defendant Johnson bribed public officials to purchase protection for operating gambling houses. R. 1003, 967-969, 975-976, Tr. 151.

(c) Insinuation that defendants Sommers, Flanagan, Hartigan and Kelly purchased protection through Skidmore for operating their respective gambling houses. R. 1003, 965-966.

77. The Court erred in not sustaining the motions of the several defendants for a directed verdict on the several counts of the indictment at the conclusion of the evidence for the prosecution. Tr. 145-148.

78. The Court erred in not sustaining the motions of the several defendants for a directed verdict on the several

counts of the indictment at the conclusion of all the evidence. Tr. 150-151, 1003-1004.

79. The Court erred in not requiring the prosecution to elect whether it would proceed under the first four counts or under the fifth count. Tr. 145-146, 148-9, 152.

80. The verdict of the jury was contrary to the law.

81. The verdict of the jury was contrary to the weight of the evidence.

1495 82. The jury did not give defendants the benefit of the rule of presumption of innocence and the rule of reasonable doubt to which they were entitled.

83. The verdict was the result of passion and prejudice on the part of the jury.

84. These defendants were denied their constitutional right to a fair and impartial trial.

85. The Court erred in denying the motions of the several defendants for a new trial.

86. The Court erred in denying the motions of the several defendants in arrest of judgment.

87. The Court erred in entering judgment on the verdict.

88. The sentences imposed on the several defendants are inconsistent and unconscionable.

Wherefore, the defendants, William R. Johnson, Jack Sommers, James A. Hartigan, John M. Flanagan, William P. Kelly and Stuart Solomon Brown pray that the judgment herein may be reversed and annulled for the errors which occurred on the trial and that they and each of them may be restored to all things which they have lost by reason of said judgment.

William R. Johnson,

Defendant.

By Floyd E. Thompson,

His Attorney.

Jack Sommers, James A. Hartigan,

John M. Flanagan, William P.

Kelly and Stuart Solomon Brown,

Defendants.

By Edward J. Hess,

John E. Byrne,

George F. Callaghan,

Their Attorneys.

1496 IN THE DISTRICT COURT OF THE UNITED STATES,

For the Northern District of Illinois,

Eastern Division.

United States of America,	}	Indictment for Violation of Sec. 145(b), Revenue Acts of 1936 and 1938, and Sec. 88, Title 18, U. S. Code. No. 32168.
<i>Plaintiff,</i>		
<i>vs.</i>		
William R. Johnson, <i>et al.</i>		
<i>Defendants.</i>		

The foregoing bill of exceptions, in two volumes, duly proposed by defendants William R. Johnson, Jack Sommers, James A. Hartigan, John M. Flanagan, William P. Kelly and Stuart Solomon Brown, and duly presented to the Court within the time allowed by law and by the rules and orders of this Court and of the United States Circuit Court of Appeals for the Seventh Circuit, after due notice to the United States Attorney, contains all the evidence introduced at the trial of said cause stated in narrative form and an index of the exhibits in evidence and of defendants' refused exhibits and the instructions given by the Court to the jury and the instructions requested by defendants and refused by the Court, and all motions, objections and rulings of the Court which are the basis of the assignments of error, and said bill of exceptions is hereby settled, allowed, signed and authenticated as in the proper form and as conforming to the truth and is the true bill of exceptions herein and is hereby made a part of the record in this case.

It is further Ordered that said bill of exceptions and the assignments of error attached thereto and the exhibits introduced in evidence on the trial and defendants' refused exhibits, all now in the custody of the Clerk of this Court, shall be transmitted by the Clerk of this Court to the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, together with a certificate certifying the bill of exceptions as a part of the record and the exhibits as the original exhibits in the case.

Dated, January 21, 1941.

John P. Barnes,
United States District Judge.

The foregoing bill of exceptions in two volumes of which this is the second was presented in open court this 19th day of December 1940.

John P. Barnes,
Judge.

1498 Northern District of Illinois, }
Eastern Division. } ss.

I, Hoyt King, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the Assignment of Errors and Bill of Exceptions made in accordance with Praecipe filed in this Court in the cause entitled United States of America vs. William R. Johnson, et al. D. C. 32168 as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 21st day of January, A. D. 1941.

Hoyt King,
Clerk.

(Seal)